

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 120
6

7 H.P. 113

House of Representatives, January 6, 1983

8 On Motion of Representative Higgins of Portland referred to the
9 Committee on Taxation. Sent up for concurrence and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Webster of Farmington.

Cosponsor: Representative Randall of East Machias.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Require Public
18 Institutions to Pay Sales Tax
19 on Income Received from the
20 Rental of Rooms for Meetings.
21

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

24 Sec. 1. 36 MRSA §1752, sub-§6 is amended to
25 read:

26 6. Living quarters. "Living quarters" means
27 sleeping rooms, sleeping or housekeeping accommoda-
28 tions, and tent or trailer space and conference
29 rooms, hearing rooms, classrooms, halls or other
30 facilities used for the conduction of seminars, edu-
31 cational programs or meetings of any kind.

32 Sec. 2. 36 MRSA §1752, sub-§11, as amended by
33 PL 1981, c. 163, §2, is further amended to read:

1 "Retail sale" or "sale at retail" means any sale of
2 tangible personal property, in the ordinary course of
3 business, for consumption or use, or for any purpose
4 other than for resale, except resale as a casual
5 sale, in the form of tangible personal property, any
6 rental of living quarters in any hotel, rooming
7 house, tourist or trailer camp, school or state or
8 municipally-owned or leased facility, any rental of
9 automobiles on a short-term basis, other than rental
10 to a person engaged in the business of renting auto-
11 mobiles, and the sale of telephone or telegraph ser-
12 vice. The term "retail sale" or "sale at retail"
13 includes conditional sales, installment lease sales,
14 and any other transfer of tangible personal property
15 when the title is retained as security for the pay-
16 ment of the purchase price and is intended to be
17 transferred later. The term "retail sale" or "sale
18 at retail" also means sale of products for internal
19 human consumption to a person for resale through
20 coin-operated vending machines when sold to a
21 retailer whose gross receipts from the retail sale of
22 tangible personal property derived through sales from
23 vending machines are more than 50% of his gross
24 receipts, which tax shall be paid by the retailer to
25 the State. The term "retail sale" or "sale at
26 retail" does not include any sale by an executor or
27 administrator in the settlement of an estate, unless
28 such sale is made through a retailer, or unless such
29 sale is made in the continuation or operation of a
30 business; nor does the term include any other iso-
31 lated transaction in which any tangible personal
32 property is sold, transferred, offered for sale or
33 delivered by the owner thereof, such sale, transfer,
34 offer for sale, or delivery not being made in the
35 ordinary course of repeated and successive trans-
36 actions of a like character by such owner, such
37 transactions being elsewhere sometimes referred to as
38 "casual sales." The sale by a registered retailer of
39 tangible personal property, which that retailer has
40 used in the course of his or its business, is not a
41 casual sale and is a retail sale subject to taxation
42 under this Part, if that property is of a like char-
43 acter to that sold in the ordinary course of repeated
44 and successive transactions. "Casual sale" shall not
45 include any transaction in which tangible personal
46 property is sold, transferred or offered for sale by
47 a representative for the owner's account when such

1 representative is a registered retailer, in which
2 event such registered retailer shall have the same
3 duties respecting such sale as if he had sold on his
4 own account. "Retail sale" and "sale at retail" do
5 not include the sale of tangible personal property
6 which becomes an ingredient or component part of, or
7 which is consumed or destroyed or loses its identity
8 in the manufacture of, tangible personal property for
9 later sale or lease, other than lease for use in this
10 State, but shall include fuel and electricity but
11 shall not include electricity separately metered and
12 consumed in any electrolytic process for the manufac-
13 ture of tangible personal property for later sale,
14 nor any fuel oil or coal, the by-products from the
15 burning of which become an ingredient or component
16 part of tangible personal property for later sale.
17 "Retail sale" and "sale at retail" do not include the
18 sale, to a person engaged in the business of renting
19 automobiles, of automobiles, or integral parts
20 thereof or accessories thereto, for rental or for use
21 in an automobile rented, on a short-term basis. It
22 shall be considered that tangible personal property
23 is "consumed or destroyed" or "loses its identity" in
24 such manufacture, if it has a normal physical life
25 expectancy of less than one year as a usable item in
26 the use to which it is applied. "Retail sale" or
27 "sale at retail" do not include the sale of contain-
28 ers, boxes, crates, bags, cores, twines, tapes,
29 bindings, wrappings, labels and other packing, pack-
30 aging and shipping materials when sold to persons for
31 use in packing, packaging or shipping tangible per-
32 sonal property sold by them or upon which they have
33 performed the service of cleaning, pressing, dyeing,
34 washing, repairing or reconditioning in their regular
35 course of business and which are transferred to the
36 possession of the purchaser of such tangible personal
37 property.

38 Sec. 3. 36 MRSa §1811, first ¶, as amended by
39 PL 1977, c. 198, §6, is further amended to read:

40 A tax is imposed at the rate of 5% on the value
41 of all tangible personal property and telephone and
42 telegraph service sold at retail in this State, and
43 upon the rental charged for living quarters in
44 hotels, rooming houses, tourist or trailer camps,
45 schools or state or municipally-owned or leased

1 facilities and the rental charged for automobiles
2 rented on a short-term basis, other than a rental
3 charged to a person engaged in the business of
4 renting automobiles, measured by the sale price,
5 except as in chapters 211 to 225 provided. Retailers
6 shall pay such tax at the time and in the manner pro-
7 vided, and it shall be in addition to all other
8 taxes.

9 STATEMENT OF FACT

10 The purpose of this bill is to require public
11 institutions such as schools and universities, and
12 the State and towns to pay sales tax to the State for
13 any income they derive through the rental of their
14 facilities to individuals, groups or organizations
15 for meetings. Because sales tax is currently not
16 charged on the rental of these facilities, public
17 institutions have an unfair advantage over operators
18 of privately-owned facilities that can be used for
19 meetings.

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