

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 510

6  
7 H.P. 428

House of Representatives, February 1, 1983

8 Received by the Clerk of the House on February 1, 1983. Referred to the  
9 Committee on Taxation, and ordered printed pursuant to Joint Rule 14.

10 EDWIN H. PERT, Clerk

Presented by Representative Kane of So. Portland.

Cosponsors: Representative Higgins of Portland, Representative Day of  
11 Westbrook and Representative Cashman of Old Town.

12 STATE OF MAINE  
13

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

17 AN ACT to Remove Cigarettes from Sales  
18 Tax Exemption and Increase State Revenue  
19 Sharing from 4% to 5% of Sales,  
20 Individual and Corporate Income Taxes.  
21

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

24 Sec. 1. 30 MRSA §5055, sub-§5, as repealed and  
25 replaced by PL 1981, c. 522, §§1 and 2, is repealed  
26 and the following enacted in its place:

27 5. Treasurer of State. An amount equal to 5% of  
28 the receipts from the taxes imposed under Title 36,  
29 Parts 3 and 8, and credited to the General Fund, plus  
30 an amount equal to \$237,000 of the receipts from the  
31 tax imposed under Title 36, Part 3, shall be trans-  
32 ferred by the Treasurer of State to the Local Govern-  
33 ment Fund on the first day of each month, beginning  
34 September 1, 1983.

1 The Treasurer of State shall distribute the balance  
2 in the Local Government Fund on the 20th day of each  
3 month, beginning July 20, 1983.

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

6       11. Retail sale or sale at retail. "Retail sale"  
7 or "sale at retail" means any sale of tangible per-  
8 sonal property, in the ordinary course of business,  
9 for consumption or use, or for any purpose other than  
10 for resale, except resale as a casual sale, in the  
11 form of tangible personal property, any rental of  
12 living quarters in any hotel, rooming house, tourist  
13 or trailer camp, any rental of automobiles on a  
14 short-term basis, other than rental to a person  
15 engaged in the business of renting automobiles, and  
16 the sale of telephone or telegraph service. The term  
17 "retail sale" or "sale at retail" includes condi-  
18 tional sales, installment lease sales, and any other  
19 transfer of tangible personal property when the title  
20 is retained as security for the payment of the pur-  
21 chase price and is intended to be transferred later.  
22 The term "retail sale" or "sale at retail" also means  
23 sale of products for internal human consumption and  
24 cigarettes to a person for resale through coin-  
25 operated vending machines when sold to a retailer  
26 whose gross receipts from the retail sale of tangible  
27 personal property derived through sales from vending  
28 machines are more than 50% of his gross receipts,  
29 which tax shall be paid by the retailer to the State.  
30 The term "retail sale" or "sale at retail" does not  
31 include any sale by an executor or administrator in  
32 the settlement of an estate, unless such sale is made  
33 through a retailer, or unless such sale is made in  
34 the continuation or operation of a business; nor does  
35 the term include any other isolated transaction in  
36 which any tangible personal property is sold, trans-  
37 ferred, offered for sale or delivered by the owner  
38 thereof, such sale, transfer, offer for sale, or  
39 delivery not being made in the ordinary course of  
40 repeated and successive transactions of a like char-  
41 acter by such owner, such transactions being else-  
42 where sometimes referred to as "casual sales." The

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

