

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 806

7 S.P. 261

In Senate, February 16, 1983

8 Referred to the Committee on Taxation, sent down for concurrence and
9 ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Wood of York.

Cosponsor: Representative Ridley of Shapleigh.

11 STATE OF MAINE
12
13

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

17 AN ACT to Clarify the Definition of
18 Casual Sales under the Sales Tax Law.
19

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

22 36 MRSA §1752, sub-§11, as amended by PL 1981, c.
23 163, §2, is further amended to read:

24 11. Retail sale or sale at retail. "Retail sale"
25 or "sale at retail" means any sale of tangible personal
26 property, in the ordinary course of business,
27 for consumption or use, or for any purpose other than
28 for resale, except resale as a casual sale, in the
29 form of tangible personal property, any rental of
30 living quarters in any hotel, rooming house, tourist
31 or trailer camp, any rental of automobiles on a
32 short-term basis, other than rental to a person
33 engaged in the business of renting automobiles, and
34 the sale of telephone or telegraph service. The term

1 "retail sale" or "sale at retail" includes condi-
2 tional sales, installment lease sales, and any other
3 transfer of tangible personal property when the title
4 is retained as security for the payment of the pur-
5 chase price and is intended to be transferred later.
6 The term "retail sale" or "sale at retail" also means
7 sale of products for internal human consumption to a
8 person for resale through coin-operated vending
9 machines when sold to a retailer whose gross receipts
10 from the retail sale of tangible personal property
11 derived through sales from vending machines are more
12 than 50% of his gross receipts, which tax shall be
13 paid by the retailer to the State. The term "retail
14 sale" or "sale at retail" does not include any sale
15 by an executor or administrator in the settlement of
16 an estate, unless such sale is made through a
17 retailer, or unless such sale is made in the continu-
18 ation or operation of a business; nor does the term
19 include any other isolated transaction in which any
20 tangible personal property is sold, transferred,
21 offered for sale or delivered by the owner thereof,
22 such sale, transfer, offer for sale, or delivery not
23 being made in the ordinary course of repeated and
24 successive transactions of a like character by such
25 owner, such transactions being elsewhere sometimes
26 referred to as "casual sales." "Casual sales"
27 includes sales by a civic, religious or fraternal
28 organization at bazaars, fairs, rummage sales,
29 picnics or similar events, regardless of the number
30 of days of the event, conducted by it where no more
31 than 4 such events were held during the previous cal-
32 endar year and no more than 4 are anticipated during
33 the current year. The sale by a registered retailer
34 of tangible personal property, which that retailer
35 has used in the course of his or its business, is not
36 a casual sale and is a retail sale subject to taxa-
37 tion under this Part, if that property is of a like
38 character to that sold in the ordinary course of
39 repeated and successive transactions. "Casual sale"
40 shall not include any transaction in which tangible
41 personal property is sold, transferred or offered for
42 sale by a representative for the owner's account when
43 such representative is a registered retailer, in
44 which event such registered retailer shall have the
45 same duties respecting such sale as if he had sold on
46 his own account. "Retail sale" and "sale at retail"
47 do not include the sale of tangible personal property

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

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STATEMENT OF FACT

34 Currently, the Bureau of Taxation regards each
35 day of a fair or similar occasion as a separate event
36 with the result that organizations may not sell for
37 more than 4 days during such an event without becom-
38 ing subject to a sales tax. This bill clarifies the
39 definition of an event to permit sales during an
40 entire event, regardless of the number of days.

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