

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 1246

6  
7 H.P. 965

House of Representatives, March 17, 1983

8 Referred to the Committee on Taxation. Sent up for concurrence and  
9 ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Higgins of Portland.  
Cosponsor: Senator Wood of York.

11  
12 STATE OF MAINE  
13

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

17 AN ACT to Repeal Certain Sales Tax  
18 Exemptions and Provide for Tax Reform.  
19

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

22 Sec. 1. 30 MRSA §5055, sub-§5, as repealed and  
23 replaced by PL 1981, c. 522, §§1 and 2, is amended to  
24 read:

25 5. Treasurer of State. An amount equal to 4% 7%  
26 of the receipts from the taxes imposed under Title  
27 36, Parts 3 and 8, and credited to the General Fund,  
28 plus an amount equal to \$237,000 of the receipts from  
29 the tax imposed under Title 36, Part 3, shall be  
30 transferred by the Treasurer of State to the Local  
31 Government Fund on the first day of each month,  
32 beginning ~~July~~ November 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~~ November 20, 1983.

4 Sec. 2. 36 MRSA §1752, sub-§5-A, as enacted by  
5 PL 1981, c. 163, §1, is repealed.

6 Sec. 3. 36 MRSA §1752, sub-§7-B, as enacted by  
7 PL 1977, c. 477, §6, is repealed.

8 Sec. 4. 36 MRSA §1752, sub-§11, as amended by PL  
9 1981, c. 163, §2, is further amended to read:

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

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

1 course of business and which are transferred to the  
2 possession of the purchaser of such tangible personal  
3 property.

4 Sec. 5. 36 MRSA §1752, sub-§14-A, as amended by  
5 PL 1981, c. 705, Pt. R, §1, is repealed.

6 Sec. 6. 36 MRSA §1760, sub-§3, as amended by PL  
7 1981, c. 163, §3, is further amended to read:

8 3. Food products for human consumption. Sales of  
9 food products. The term "food products" shall, except  
10 as otherwise provided, include cereals and cereal  
11 products; milk and milk products, other than candy  
12 and confectionery, but including ice cream; oleo-  
13 margarine; meat and meat products; fish and fish  
14 products; eggs and egg products; vegetable and vege-  
15 table products; fruit and fruit products, including  
16 pure fruit juices; spices, condiments and salt; sugar  
17 and sugar products other than candy and confection-  
18 ery; coffee and coffee substitutes; tea, cocoa and  
19 cocoa products, other than candy and confectionery.

20 "Food products" shall not include spirituous, malt or  
21 vinous liquors; soft drinks, sodas or beverages such  
22 as are ordinarily dispensed at bars or soda fountains  
23 or in connection therewith; medicines, tonics, vita-  
24 mins and preparations in liquid, powdered, granular,  
25 tablet, capsule, lozenge or pill form, sold as  
26 dietary supplements or adjuncts, except when sold on  
27 the prescription of a physician; water, including  
28 mineral bottled and carbonated waters and ice.

29 "Food products" shall not include meals served on or  
30 off the premises of the retailer; or drinks or food  
31 furnished, prepared or served for consumption at  
32 tables, chairs or counters, or from trays, glasses,  
33 dishes or other tableware provided by the retailer.

34 This exemption does not apply to products sold to a  
35 person for resale through coin-operated vending  
36 machines when sold to a person whose gross receipts  
37 from the retail sale of tangible personal property  
38 derived through sales from vending machines are more  
39 than 50% of his gross receipts.

1 The sale of food products ordinarily sold for immedi-  
2 ate consumption on or near the location of the  
3 retailer is a taxable sale even though such products  
4 are sold on a "take out" or "to go" order and are ac-  
5 tually packaged or wrapped and taken from the prem-  
6 ises.

7 Sec. 7. 36 MRSA §1760, sub-§6, as amended by PL  
8 1979, c. 663, §220, is further amended to read:

9 6. Certain meals. Sales of meals:

10 A. Served by public or private schools, school  
11 districts, student organizations and parent-  
12 teacher associations to the students or teachers  
13 of a school; or

14 B. To patients and inmates of hospitals licensed  
15 by the State for the care of human beings and  
16 other institutions licensed by the State for the  
17 hospitalization or nursing care of human beings,  
18 or institutions, agencies, hospitals, boarding  
19 homes and boarding houses licensed by the Depart-  
20 ment of Human Services under Title 22, Subtitle  
21 6, and Title 34, section 2211, and.

22 ~~C. By hospitals, schools, long-term care facili-~~  
23 ~~ties, food contractors and restaurants to~~  
24 ~~incorporated nonprofit area agencies on aging for~~  
25 ~~the purpose of providing meals to the elderly.~~

26 Sec. 8. 36 MRSA §1760, sub-§7 is repealed.

27 Sec. 9. 36 MRSA §1760, sub-§9-A, as enacted by  
28 PL 1973, c. 594, is repealed.

29 Sec. 10. 36 MRSA §1760, sub-§§10, 11 and 14 are  
30 repealed.

31 Sec. 11. 36 MRSA §1760, sub-§16, as amended by  
32 PL 1981, c. 706, §21, is repealed and the following  
33 enacted in its place:

34 16. Churches. Sales to regularly organized  
35 churches or houses of religious worship, except  
36 sales, storage or use in activities which are mainly  
37 commercial enterprises.

1           Sec. 12. 36 MRSA §1760, sub-§18 is repealed.

2           Sec. 13. 36 MRSA §1760, sub-§18-A, as amended by  
3 PL 1975, c. 293, §4, is repealed.

4           Sec. 14. 36 MRSA §1760, sub-§§19, 21 and 24 are  
5 repealed.

6           Sec. 15. 36 MRSA §1760, sub-§29, as amended by  
7 PL 1975, c. 618, §12, is repealed.

8           Sec. 16. 36 MRSA §1760, sub-§30, as amended by  
9 PL 1973, c. 575, §2, is repealed.

10          Sec. 17. 36 MRSA §1760, sub-§31, as repealed and  
11 replaced by PL 1977, c. 477, §11, is repealed.

12          Sec. 18. 36 MRSA §1760, sub-§32, as enacted by  
13 PL 1973, c. 580, §1, is repealed.

14          Sec. 19. 36 MRSA §1760, sub-§36, as enacted by  
15 PL 1975, c. 741, §33, is repealed.

16          Sec. 20. 36 MRSA §1760, sub-§37, as enacted by  
17 PL 1977, c. 342, §2, is repealed.

18          Sec. 21. 36 MRSA §1760, sub-§38, as reallocated  
19 by PL 1977, c. 696, §273-A, is repealed.

20          Sec. 22. 36 MKRSA §1760, sub-§40, as reallocated  
21 by PL 1979, c. 663, §221, is repealed.

22          Sec. 23. 36 MRSA §1811, first ¶, as amended by  
23 PL 1977, c. 198, §6, is further amended to read:

24           A tax is imposed at the rate of 5% 4 1/2% on the  
25 value of all tangible personal property and telephone  
26 and telegraph service sold at retail in this State,  
27 and upon the rental charged for living quarters in  
28 hotels, rooming houses, tourist or trailer camps and  
29 the rental charged for automobiles rented on a short-  
30 term basis, other than a rental charged to a person  
31 engaged in the business of renting automobiles, mea-  
32 sured by the sale price, except as in chapters 211 to  
33 225 provided. Retailers shall pay such tax at the  
34 time and in the manner provided, and it shall be in  
35 addition to all other taxes.

1           Sec. 24. 36 MRSA §1812, first 2 ¶¶, as repealed  
2 and replaced by PL 1969, c. 295, §3, are repealed and  
3 the following enacted in their place:

4           Every retailer shall add the sales tax imposed by  
5 chapters 211 to 225, or the average equivalent of  
6 that tax, to his sale price, except as otherwise pro-  
7 vided, and when added the tax shall constitute a part  
8 of the price, shall be a debt of the purchaser to the  
9 retailer until paid and shall be recoverable at law  
10 in the same manner as the purchase price. When the  
11 sale price shall involve a fraction of a dollar, the  
12 tax shall be added to the sale price upon the follow-  
13 ing schedules:

14	<u>Amount of Sale Price</u>	<u>Amount of Tax</u>
15	<u>\$0.01 to \$0.10, inclusive</u>	<u>0¢</u>
16	<u>.11 to .22, inclusive</u>	<u>1¢</u>
17	<u>.23 to .44, inclusive</u>	<u>2¢</u>
18	<u>.45 to .66, inclusive</u>	<u>3¢</u>
19	<u>.67 to .88, inclusive</u>	<u>4¢</u>
20	<u>.89 to 1.10, inclusive</u>	<u>5¢</u>
21	<u>1.11 to 1.32, inclusive</u>	<u>6¢</u>
22	<u>1.33 to 1.54, inclusive</u>	<u>7¢</u>
23	<u>1.55 to 1.76, inclusive</u>	<u>8¢</u>
24	<u>1.77 to 1.99, inclusive</u>	<u>9¢</u>

25           When the sale price exceeds \$1.99, the tax to be  
26 added to that price shall be 9¢ for each unit of \$2,  
27 plus the amount indicated in this section for each  
28 fractional part of \$2.

29           Sec. 25. 36 MRSA §1861, as amended by PL 1969,  
30 c. 295, §4, is further amended to read:

31           §1861. Purchase of tangible personal property

32           A tax is imposed on the storage, use or other  
33 consumption in this State of tangible personal prop-  
34 erty, purchased at retail sale, at the rate of 5%  $\frac{1}{2}$   
35 of the sale price. Every person so storing,  
36 using or otherwise consuming is liable for the tax  
37 until he has paid the same or has taken a receipt  
38 from his seller, thereto duly authorized by the State  
39 Tax Assessor, showing that the seller has collected



1 the sales or use tax, in which case the seller shall  
2 be liable for it. Retailers registered under section  
3 1754 or 1756 shall collect such tax and make remit-  
4 tance to the State Tax Assessor. The amount of such  
5 tax payable by the purchaser shall be that provided  
6 in the case of sales taxes by section 1812. When  
7 tangible personal property purchased for resale is  
8 withdrawn from inventory by the retailer for his own  
9 use, use tax liability accrues at the date of with-  
10 drawal.

11 **Sec. 26. Effective date.** This Act shall take  
12 effect November 1, 1983.

13 STATEMENT OF FACT

14 This bill repeals certain sales tax exemptions  
15 and uses the additional revenue gained to reduce the  
16 sales tax to 4 1/2% and to increase local revenue  
17 sharing by approximately 75%.

18 1440030883