

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1294

7 H.P. 989

House of Representatives, March 23, 1983

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

10 EDWIN H. PERT, Clerk

11 Presented by Representative Brannigan of Portland.

12 STATE OF MAINE
13

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

17 AN ACT to Increase Sales Tax
18 Equity.
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22 Sec. 1. 30 MRSA §5055, sub-§5, as repealed and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% 5%
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 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 M RSA §1752, sub-§2-B is enacted to
5 read:

6 2-B. Casual sale. "Casual sale" means any iso-
7 lated transaction in which tangible personal property
8 or services are sold, transferred or offered for sale
9 and delivered by the owner, if that sale, transfer,
10 offer for sale or delivery is not made in the ordi-
11 nary course of repeated and successive transactions
12 of a like character by the owner. The following
13 types of transactions are specifically excluded from
14 this definition and constitute "retail sales," as de-
15 finied in this section:

16 A. The sale by a registered retailer of tangible
17 personal property which that retailer has used in
18 the course of his business and which is of a like
19 character to that sold in the ordinary course of
20 repeated and successive transactions; and

21 B. Any transaction in which tangible personal
22 property or services are sold, transferred or
23 offered for sale by a representative for the
24 owner's account, when the representative is a
25 registered retailer, in which event the regis-
26 tered retailer shall have the same duties
27 respecting the sale as if he had sold on his own
28 account.

29 Sec. 3. 36 M RSA §1752, sub-§11, as amended by PL
30 1981, c. 163, §2, is repealed and the following
31 enacted in its place:

32 11. Retail sale or sale at retail. "Retail sale"
33 or "sale at retail" means any sale of tangible per-
34 sonal property or of services for consumption or use
35 or for any purpose other than resale, except resale
36 as a casual sale. The term "retail sale" or "sale at
37 retail" includes, but is not limited to, the follow-
38 ing:

39 A. Any rental of living quarters in any hotel,
40 rooming house, tourist or trailer camp;

- 1 B. Any rental of automobiles on a short-term
2 basis, other than rental to a person engaged in
3 the business of renting automobiles;
- 4 C. Any sale of telephone or telegraph service;
- 5 D. Conditional sales, installment lease sales
6 and any other transfer of tangible personal prop-
7 erty when the title is retained as security for
8 the payment of the purchase price and is intended
9 to be transferred later;
- 10 E. Sale of products for internal human consump-
11 tion to a person for resale through coin-operated
12 vending machines when sold to a retailer whose
13 gross receipts from the retail sale of tangible
14 personal property derived through sales from
15 vending machines are more than 50% of his gross
16 receipts, which tax shall be paid by the
17 retailer;
- 18 F. Except as otherwise provided in this section,
19 fuel and electricity; and
- 20 G. Sale of taxable services, as defined in
21 section 1815.

22 Sec. 4. 36 MRSA §1752, sub-§11-A is enacted to
23 read:

24 11-A. Retail sale or sale at retail further de-
25 efined. The term "retail sale" or "sale at retail"
26 does not include the following:

- 27 A. Casual sales, as defined in subsection 2-B;
- 28 B. Any sale by a personal representative in the
29 settlement of an estate, unless the sale is made
30 through a retailer or unless the sale is made in
31 the continuation or operation of a business;
- 32 C. The sale of tangible personal property which
33 becomes an ingredient or component part of, or
34 which is consumed or destroyed or loses its iden-
35 tity in the manufacture of, tangible personal
36 property for later sale or lease, other than
37 lease for use in this State;

1 D. Electricity separately metered and consumed
2 in any electrolytic process for the manufacture
3 of tangible personal property for later sale;

4 E. Fuel oil or coal, the by-products from the
5 burning of which become an ingredient or compo-
6 nent part of tangible personal property for later
7 sale;

8 F. Sale, to a person engaged in the business of
9 renting automobiles, of automobiles, or integral
10 parts or accessories to automobiles, for rental
11 or for use in an automobile rented on a short-
12 term basis; or

13 G. Sale of containers, boxes, crates, bags,
14 cores, twines, tapes, bindings, wrappings, labels
15 and other packing, packaging and shipping mate-
16 rials when sold to persons for use in packing,
17 packaging or shipping tangible personal property
18 sold by them or upon which they have performed
19 the service of cleaning, pressing, dyeing, wash-
20 ing, repairing or reconditioning in their regular
21 course of business and which are transferred to
22 the possession of the purchaser of the tangible
23 personal property.

24 Sec. 5. 36 MRSa §1753 is amended to read:

25 §1753. Tax is a levy on consumer

26 The liability for, or the incidence of, the tax
27 on tangible personal property or services provided by
28 chapters 211 to 225 is declared to be a levy on the
29 consumer. The retailer shall add the amount of the
30 tax on such property or services and may state the
31 amount of the taxes separately from the price of such
32 property or services on all price display signs,
33 sales or delivery slips, bills and statements which
34 advertise or indicate the price of such property or
35 services. This section shall in no way affect the
36 method of collection of such taxes on such property
37 or services as now provided by law.

38 Sec. 6. 36 MRSa §1754, sub-§8, as enacted by PL
39 1979, c. 268, is amended to read:

1 8. Other presence in State. Every seller of tan-
2 gible personal property who maintains a continuing
3 presence of a nonsoliciting employee within the State
4 or who makes regular or frequent delivery in this
5 State of that property by means of its own employees
6 or agents; and

7 Sec. 7. 36 MRSA §1754, sub-§9 is enacted to
8 read:

9 9. Taxable services. Every person furnishing
10 taxable services, as provided in section 1815.

11 Sec. 8. 36 MRSA §1755, as amended by PL 1969, c.
12 18, is further amended to read:

13 §1755. No registration unless tax paid

14 Whenever any tangible personal property or ser-
15 vices whose sale or use is subject to tax under chap-
16 ters 211 to 225 is required to be registered for use
17 within this State by any law other than this, the
18 applicant for registration, whether or not the owner,
19 shall himself be liable for the sales tax or use tax
20 or shall prove that said the tax is not owing. ~~Such~~
21 That applicant shall file with the registering agency
22 a certificate in such form as may be prescribed by
23 the State Tax Assessor containing the name of vendor,
24 date of purchase, sale price and such other informa-
25 tion as may be pertinent to determination of tax lia-
26 bility; and the registering agency shall forward ~~such~~
27 that certificate promptly to the Bureau of Taxation.

28 Sec. 9. 36 MRSA §1756, as amended by PL 1971, c.
29 20, is further amended to read:

30 §1756. Voluntary registration

31 Every seller of tangible personal property or
32 services, not required by section 1754 to register,
33 may register upon such terms as the State Tax Asses-
34 sor may prescribe. Upon registration, he shall have
35 the rights and duties of a person required to be
36 registered and shall be subject to the same pen-
37 alties, except that his liability may be limited to
38 tax actually collected. The person so registered may
39 at any time surrender his registration certificate

1 and request that the same be canceled. Upon receipt
2 of ~~such~~ the certificate and request, the State Tax
3 Assessor shall grant the same, if it appears to the
4 State Tax Assessor that the registrant has satisfied
5 all liability to the State and that he is not re-
6 quired by law to register. Upon surrender of his
7 certificate, the registered person shall cease to
8 collect sales or use taxes upon sales taking place on
9 and after the date of ~~such~~ that surrender.

10 Sec. 10. 36 MRSa §1811, first ¶, as amended by
11 PL 1977, c. 198, §6, is further amended to read:

12 A tax is imposed at the rate of 5% on the value
13 of all taxable services as provided in section 1815,
14 all tangible personal property and telephone and
15 telegraph service sold at retail in this State, and
16 upon the rental charged for living quarters in
17 hotels, rooming houses, tourist or trailer camps and
18 the rental charged for automobiles rented on a short-
19 term basis, other than a rental charged to a person
20 engaged in the business of renting automobiles, mea-
21 sured by the sale price, except as in chapters 211 to
22 225 provided. Retailers shall pay such tax at the
23 time and in the manner provided, and it shall be in
24 addition to all other taxes.

25 Sec. 11. 36 MRSa §1813, as amended by PL 1977,
26 c. 696, §276, is further amended to read:

27 §1813. Illegal collection of sales tax prohibited

28 Any retailer who knowingly charges or collects as
29 the sales tax due on the sale price of any property,
30 services or rental an amount in excess of that pro-
31 vided by section 1812 shall be guilty of a Class E
32 crime.

33 Sec. 12. 36 MRSa §1815 is enacted to read:

34 §1815. Taxable services

35 The tax imposed by this chapter is imposed on the
36 total amount received in money, credits, property or
37 other consideration, valued in money, from services
38 rendered, furnished or performed in this State,
39 except where that service is performed on tangible

1 personal property delivered into interstate commerce
2 or is used in processing of tangible personal prop-
3 erty for use in taxable retail sales or services.
4 For purposes of this chapter, the term "taxable ser-
5 vices" includes the following:

6 1. Amusements. Amusement services, including
7 movie theaters; performances; bowling, pool, skating,
8 swimming, riding and other recreation fees; Turkish
9 baths; massage and reducing salons; health clubs;
10 golf and country clubs; and itinerant amusement
11 shows;

12 2. Business services. Business services, except
13 advertising services. Business services include pro-
14 motion and direct mail; armored cars; janitorial ser-
15 vices; mailing services; telephone answering ser-
16 vices; testing laboratories; wrapping, packing and
17 packaging of merchandise; weighing; sign painting;
18 equipment rentals; collection agencies; bookkeeping
19 services; secretarial services; and employment agen-
20 cies;

21 3. Construction services. Construction services
22 for remodeling or repair of buildings and structures
23 erected for the improvement of realty, including con-
24 struction contracts; carpentry; masonry; plastering;
25 painting; papering; interior decorating; excavating
26 and grading; pipe fitting and plumbing; house and
27 building moving; and well drilling;

28 4. Personal services. Personal services,
29 including barbers and beauty salons; dry cleaning,
30 pressing, dyeing and laundry; coin-operated laundry
31 and dry cleaning; shoe repair and shoe shine; altera-
32 tions; sewing and stitching; and fur storage, repair,
33 dyers and dressers;

34 5. Professional services. Professional ser-
35 vices, including accountants; architects; attorneys;
36 artists; chemists; doctores; dentists; nurses; allied
37 health personnel; veterinarians; engineers;
38 geologists; surveyors; morticians; pharmacists; and
39 chiropractors;

40 6. Repair services. Repair services, including
41 motor vehicle repair; oilers and lubricators; motor

1 vehicle washing, waxing and polishing; wrecker ser-
2 vice; repairs of boats, bicycles, machines, motors,
3 tin and sheet metal, roofs, shingles, glass electri-
4 cal circuits, household appliances, televisions,
5 radios, jewelry, watches, office and business
6 machines; furniture, rug and upholstery repair and
7 cleaning; swimming pool cleaning; wood preparation;
8 welding; finishers; polishers; and exterminators; and

9 7. Miscellaneous services. Other services, as
10 follows: Boarding or grooming of animals; stud fees;
11 engraving; photography and retouching; printing and
12 binding; refuse services; parking lots; warehouses
13 and lockers; fortune tellers; pawn brokers; and taxi-
14 dermists.

15 §5217. Sales tax credit

16 1. Credit. A resident individual is entitled to
17 an annual credit against the tax otherwise due under
18 this Part equal to \$15 for each dependent claimed on
19 his return. If the individual is claimed as a
20 dependent on another person's return, he may not
21 claim this credit.

22 2. Carry-over. The credit created by this
23 section may not be carried forward or back to another
24 year.

25 Sec. 13. Effective date. This Act takes effect
26 on January 1, 1984.

27 Sec. 14. Review. The Joint Standing Committee
28 on Taxation of the 112th Legislature shall review the
29 operation of this Act in the First Regular Session.
30 The committee may report out any legislation it deems
31 necessary to clarify the administration of the provi-
32 sions of this Act and may recommend other adjustments
33 to further the purposes of this Act including, but
34 not limited to, an increase in the sales tax credit
35 created in section 12, or a reduction in the sales
36 tax rate.

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STATEMENT OF FACT

This bill enacts one of the major recommendations contained in the 1975 report of the Governor's Tax Policy Committee, the extension of the sales tax to certain services and institution of an income tax credit for sales taxes.

In addition, section 1 modifies the sales tax sharing formula with local governments.

This measure accomplishes substantial tax reform by making the sales tax more reflective of "luxury" consumption and returning revenues through the progressive income tax structure and aid to municipalities to help ameliorate property tax burdens. In order to give the Legislature an opportunity to assess the impact on revenues of the services component of the sales tax, the revenue-sharing and tax credit provisions are addressed conservatively.

Sections 2, 3 and 4 of the bill, in large part, simply reenact current language from Title 36, section 1752, subsection 11, to make it more intelligible.

The sales tax on personal services would begin on January 1, 1984. After a period of about a year, the Joint Standing Committee on Taxation would be charged with reviewing its operation and effects on revenue. At that time, the committee would be empowered to submit legislation to fine tune these provisions and to adjust the income tax credit in section 12 or to reduce the sales tax rate to properly account for the increased revenues experienced under the Act. This Act would result in increased revenues from the sales tax. In an effort to be conservative, no specific rate reduction is called for in this bill; hopefully, after experience with the law, the Legislature would reduce the rate for all goods and services.

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