

MAINE STATE LEGISLATURE

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1 (New Draft of S.P. 261, L.D. 806)
2 (New Title)

3 FIRST REGULAR SESSION
4

5 ONE HUNDRED AND ELEVENTH LEGISLATURE
6

7 Legislative Document

No. 1766

8
9 S.P. 627

In Senate, June 14, 1983

10 Reported by Senator Twitchell of Oxford from the Committee on
11 Taxation and printed under Joint Rule 2.

12 Original bill presented by Senator Wood of York. Cosponsored by
Representative Ridley of Shapleigh.

JOY J. O'BRIEN, Secretary of the Senate

13
14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-THREE
18

19 AN ACT to Change the Treatment of
20 Certain Sales under the Sales Tax Law.
21

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

24 Sec. 1. 36 MRS §1752, sub-§11, as amended by PL
25 1981, c. 163, §2, is further amended to read:

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

1 engaged in the business of renting automobiles, and
2 the sale of telephone or telegraph service. The term
3 "retail sale" or "sale at retail" includes condi-
4 tional sales, installment lease sales, and any other
5 transfer of tangible personal property when the title
6 is retained as security for the payment of the pur-
7 chase price and is intended to be transferred later.
8 The term "retail sale" or "sale at retail" also means
9 sale of products for internal human consumption to a
10 person for resale through coin-operated vending
11 machines when sold to a retailer whose gross receipts
12 from the retail sale of tangible personal property
13 derived through sales from vending machines are more
14 than 50% of his gross receipts, which tax shall be
15 paid by the retailer to the State. The term "retail
16 sale" or "sale at retail" does not include any sale
17 by an executor or administrator in the settlement of
18 an estate, unless such sale is made through a
19 retailer, or unless such sale is made in the continu-
20 ation or operation of a business; nor does the term
21 include any other isolated transaction in which any
22 tangible personal property is sold, transferred,
23 offered for sale or delivered by the owner thereof,
24 such sale, transfer, offer for sale, or delivery not
25 being made in the ordinary course of repeated and
26 successive transactions of a like character by such
27 owner, such transactions being elsewhere sometimes
28 referred to as "casual sales." "Casual sales"
29 includes transactions by a civic, religious or fra-
30 ternal organization, which is not a registered
31 retailer, at bazaars, fairs, rummage sales, picnics
32 or similar events but not exceeding 8 days in a cal-
33 endar year. The sale by a registered retailer of tan-
34 gible personal property, which that retailer has used
35 in the course of his or its business, is not a casual
36 sale and is a retail sale subject to taxation under
37 this Part, if that property is of a like character to
38 that sold in the ordinary course of repeated and suc-
39 cessive transactions. "Casual sale" shall not
40 include any transaction in which tangible personal
41 property is sold, transferred or offered for sale by
42 a representative for the owner's account when such
43 representative is a registered retailer, in which
44 event such registered retailer shall have the same
45 duties respecting such sale as if he had sold on his
46 own account. "Retail sale" and "sale at retail" do
47 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.

33 Sec. 2. 36 MRSA §1760, sub-§16, as amended by PL
34 1981, c. 706, §21, is further amended to read:

35 16. Hospitals, research centers, churches and
36 schools. Sales to incorporated hospitals, incorpo-
37 rated nonprofit nursing homes licensed by the Depart-
38 ment of Human Services, incorporated nonprofit home
39 health care agencies certified under Title XVII of
40 the United States Social Security Act of 1965, Title
41 XVIII, as amended, incorporated nonprofit rural com-
42 munity health centers engaged in, or providing facil-
43 ities for, the delivery of comprehensive primary
44 health care, incorporated nonprofit dental health

1 centers, institutions incorporated as nonprofit cor-
2 porations for the sole purpose of conducting medical
3 research or for the purpose of establishing and main-
4 taining laboratories for scientific study and inves-
5 tigation in the field of biology or ecology or oper-
6 ating educational television or radio stations,
7 schools and regularly organized churches or houses of
8 religious worship, excepting sales, storage or use in
9 activities which are mainly commercial enterprises.
10 "Schools" mean incorporated nonstock educational
11 institutions, including institutions empowered to
12 confer educational, literary or academic degrees,
13 which have a regular faculty, curriculum and organ-
14 ized body of pupils or students in attendance
15 throughout the usual school year, which keep and fur-
16 nish to students and others records required and ac-
17 cepted for entrance to schools of secondary, colle-
18 giate or graduate rank, no part of the net earnings
19 of which inures to the benefit of any individual.

20 Sec. 3. 36 MRSA §1760, sub-§§42 and 43 are
21 enacted to read:

22 42. Historical societies and museums. Sales to
23 incorporated nonprofit historical societies and
24 museums.

25 43. Nursery schools and day-care centers. Sales
26 to licensed, nonprofit nursery schools and day-care
27 centers.

28 Sec. 4. 36 MRSA §1765, as amended by PL 1979, c.
29 541, Pt. A, §222, is repealed and the following
30 enacted in its place:

31 §1765. Trade-in credit

32 When one or more of the following items of tan-
33 gible personal property are traded in toward the sale
34 price of another of the following items, the tax
35 imposed by this Part shall be levied only upon the
36 difference between the sale price of the purchased
37 property and the sale price of the property taken in
38 trade, except for transactions between dealers
39 involving exchange of the property from inventory:

- 1 1. Motor vehicles. Motor vehicles;
- 2 2. Farm tractors. Farm tractors;
- 3 3. Boats. Boats;
- 4 4. Aircraft. Aircraft;
- 5 5. Lumber harvesting vehicles. Self-propelled
6 vehicles used to harvest lumber;
- 7 6. Repair parts. Repair parts with a retail
8 value of at least \$500 for vehicles which could be
9 allowed a trade-in credit under this section; and
- 10 7. Chain saws. Chain saws.

11 Sec. 5. 36 MRSA §2014 is enacted to read:

12 §2014. Fish passage facilities

13 Taxes on the sale or use of materials used in the
14 construction of fish passage facilities in new,
15 reconstructed or redeveloped dams, when the fish pas-
16 sage facilities are built in accordance with plans
17 and specifications approved by the Department of
18 Inland Fisheries and Wildlife or the Department of
19 Marine Resources, shall be refundable.

20 The State Tax Assessor shall refund sales or use
21 tax paid on these construction materials upon the
22 submission by a person of the following:

23 1. Certification concerning construction. A
24 certification from the Department of Inland Fisheries
25 and Wildlife or the Department of Marine Resources
26 that the fish passage facilities were constructed in
27 accordance with approved plans and specifications;
28 and

29 2. Application for tax rebate. An application
30 for a tax rebate which shall state at a minimum the
31 construction materials purchased, its manufacturers,
32 its cost, the use of which the purchaser has made of
33 the materials and the seller from whom the purchase
34 was made, and shall be accompanied by a copy of the
35 purchase invoices.

1 FISCAL NOTE

2 It is estimated that enactment of this bill will
3 result in the following loss of revenue.

4	<u>1983-84</u>	<u>1984-85</u>
5 General Fund	\$86,680	\$138,870
6 Local Government Fund	\$ 3,545	\$ 5,780

7 STATEMENT OF FACT

8 This new draft combines several bills to change
9 the sales tax law.

10 Section 1 clarifies the definition of casual
11 sales to permit casual sales by certain organizations
12 not exceeding 8 days in a calendar year. Its cost
13 for the biennium is \$16,600.

14 Section 2 creates a sales tax exemption for
15 incorporated nonprofit dental health centers. Its
16 cost for the biennium is \$1,325.

17 Section 3 creates a sales tax exemption for
18 incorporated nonprofit historical societies and
19 museums. Its cost for the biennium is \$58,000.

20 Section 3 also creates a sales tax exemption for
21 incorporated nonprofit nursery schools and day-care
22 centers. Its cost for the biennium is \$3,075.

23 Section 4 permits a sales tax trade-in credit for
24 chain saws and for repair parts with a retail value
25 of at least \$500. Its cost for the biennium is
26 \$155,800.

27 Section 5 provides for a sales tax refund on
28 materials used in the construction of fish
29 passageways. Its cost for the biennium is \$16,675.

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