

MAINE STATE LEGISLATURE

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1 THIRD SPECIAL SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 2485

7 H.P. 1885 House of Representatives, September 4, 1984

8 Received by the Clerk of the House on September 4, 1984.

9 Referred to the Committee on Taxation. Sent up for concurrence and
ordered printed pursuant to Joint Rule 14.

10 Presented by Representative Higgins of Portland. EDWIN H. PERT, Clerk

Cosponsored by: Representative Kane of So. Portland, Representative
Cashman of Old Town and Senator Wood of York.

11
12 STATE OF MAINE
13

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

17 AN ACT to Revise Certain Portions of the
18 Tax Laws Relative to Income Tax Conformity,
19 Sales Taxes, Real Estate Transfer Taxes and
20 Cigarette Taxes.
21

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

24 Sec. 1. 36 MRSA §1752, §2-B is enacted to read:

25 2-B. Cable television service. "Cable televi-
26 sion service" means all cable television service in-
27 cluding the use of associated equipment for which a
28 charge is made, except installation of the associated
29 equipment for which a separate charge is levied.

30 Sec. 2. 36 MRSA §1752, sub-§11, as amended by PL
31 1983, c. 560, §§1 and 6, is further amended to read:

32 11. Retail sale or sale at retail. "Retail sale"
33 or "sale at retail" means any sale of tangible per-

1 sonal property, in the ordinary course of business,
2 for consumption or use, or for any purpose other than
3 for resale, except resale as a casual sale, in the
4 form of tangible personal property, any rental of
5 living quarters in any hotel, rooming house, tourist
6 or trailer camp, any rental of automobiles on a
7 short-term basis, other than rental to a person en-
8 gaged in the business of renting automobiles, and the
9 sale of telephone or telegraph service and the sale
10 of cable television service. The term "retail sale"
11 or "sale at retail" includes conditional sales, in-
12 stallment lease sales, and any other transfer of tan-
13 gible personal property when the title is retained as
14 security for the payment of the purchase price and is
15 intended to be transferred later. The term "retail
16 sale" or "sale at retail" also means sale of products
17 for internal human consumption to a person for resale
18 through coin-operated vending machines when sold to a
19 retailer whose gross receipts from the retail sale of
20 tangible personal property derived through sales from
21 vending machines are more than 50% of his gross re-
22 cepts, which tax shall be paid by the retailer to
23 the State. The term "retail sale" or "sale at re-
24 tail" does not include any sale by an executor or ad-
25 ministrator in the settlement of an estate, unless
26 such sale is made through a retailer, or unless such
27 sale is made in the continuation or operation of a
28 business; nor does the term include any other iso-
29 lated transaction in which any tangible personal
30 property is sold, transferred, offered for sale or
31 delivered by the owner thereof, such sale, transfer,
32 offer for sale, or delivery not being made in the ordi-
33 nary course of repeated and successive transactions
34 of a like character by such owner, such transactions
35 being elsewhere sometimes referred to as "casual
36 sales." "Casual sales" includes transactions by a
37 civic, religious or fraternal organization, which is
38 not a registered retailer, at bazaars, fairs, rummage
39 sales, picnics or similar events but not exceeding 8
40 days in a calendar year. The sale by a registered re-
41 tailer of tangible personal property, which that re-
42 tailer has used in the course of his or its business,
43 is not a casual sale and is a retail sale subject to
44 taxation under this Part, if that property is of a
45 like character to that sold in the ordinary course of
46 repeated and successive transactions. "Casual sale"
47 shall not include any transaction in which tangible

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

40 Sec. 3. 36 MRSA §1754, sub-§9 is enacted to
41 read:

42 9. Cable television service. Every person fur-
43 nishing cable television service.

44 Sec. 4. 36 MRSA §1760, sub-§11 is repealed.

1 Sec. 5. 36 MRSA §1760, sub-§36, as enacted by PL
2 1975, c. 741, §33, is repealed.

3 Sec. 6. 36 MRSA §1811, first ¶, as amended by PL
4 1977, c. 198, §6, is further amended to read:

5 A tax is imposed at the rate of 5% on the value
6 of all tangible personal property ~~and, on telephone~~
7 and telegraph service and on cable television service
8 sold at retail in this State, and upon the rental
9 charged for living quarters in hotels, rooming
10 houses, tourist or trailer camps and the rental
11 charged for automobiles rented on a short-term basis,
12 other than a rental charged to a person engaged in
13 the business of renting automobiles, measured by the
14 sale price, except as in chapters 211 to 225 pro-
15 vided. Retailers shall pay such tax at the time and
16 in the manner provided, and it shall be in addition
17 to all other taxes.

18 Sec. 7. 36 MRSA §4365, as amended by PL 1983, c.
19 477, Pt. F, sub-Pt. 2, is further amended to read:

20 §4365. Rate of tax

21 A tax is imposed on all cigarettes held in this
22 State by any person for sale, said tax to be at the
23 rate of ~~10~~ 14 mills for each cigarette and the pay-
24 ment thereof to be evidenced by the affixing of
25 stamps to the packages containing the cigarettes. If
26 a federal program similar to that provided in Title
27 22, section 3185, becomes effective, this tax is re-
28 duced by one mill for each cigarette. The Governor
29 shall determine by proclamation when the federal pro-
30 gram has become effective. Any cigarette on which a
31 tax has been paid, such payment being evidenced by
32 the affixing of such stamp, shall not be subject to a
33 further tax under this chapter. Nothing contained in
34 this chapter shall be construed to impose a tax on
35 any transaction, the taxation of which by this State
36 is prohibited by the Constitution of the United
37 States.

38 Each unclassified importer shall, within 24 hours
39 after receipt of any unstamped cigarettes in this

1 State, notify the State Tax Assessor of the number of
2 cigarettes received, and the name and address of con-
3 signor. The State Tax Assessor thereupon shall noti-
4 fy the unclassified importer of the amount of the tax
5 due thereon, which shall be at the rate of ~~10~~ 14
6 mills per cigarette. Payment of the amount due the
7 State shall be made within 10 days from mailing date
8 of notice thereof.

9 Sec. 8. 36 MRSA §4641-A, as enacted by PL 1975,
10 c. 572, §1, is amended to read:

11 §4641-A. Rate of tax

12 There is imposed a tax upon the privilege of
13 transferring title to real property at the rate of
14 ~~55¢~~ \$1.10 for each \$500 or fractional part thereof,
15 of consideration therefor. The grantor shall be lia-
16 ble for payment of said tax.

17 Sec. 9. 36 MRSA §4641-B, 5th ¶, as amended by
18 P&SL 1975, c. 78, §21, is further amended to read:

19 Each register of deeds shall, on or before the
20 10th day of each month, pay over to the State Tax As-
21 sessor ~~85%~~ 90% of the tax collected during the previ-
22 ous month. The remaining ~~15%~~ 10% shall be retained
23 for the county by the register of deeds and accounted
24 for to the county treasurer as reimbursement for ser-
25 vices rendered by the county in collecting the tax.

26 Sec. 10. 36 MRSA §5102, sub-§11, as amended by
27 PL 1983, c. 855, §14, is further amended to read:

28 11. Other terms. Any other term used in this
29 Part has the same meaning as when used in a compara-
30 ble context in the laws of the United States relating
31 to federal income taxes, unless a different meaning
32 is clearly required. Any reference in this Part to
33 the laws of the United States shall be construed as a
34 reference to the provisions of the United States In-
35 ternal Revenue Code of 1954, and amendments thereto
36 and other provisions of the laws of the United States
37 relating to federal income taxes as of ~~January 31,~~
38 September 1, 1984. This subsection shall be ef-
39 fective as to items of income, deductions, loss or
40 gain accruing in taxable years ending on or after

1 January 1, 1984 but only to the extent that those
2 items have been earned, received, incurred or accrued
3 on or after that effective date. Notwithstanding
4 other provisions of this subsection, for taxable
5 years ending in 1981 and 1982, any reference in this
6 Part to the laws of the United States shall be con-
7 strued as a reference to the provisions of the United
8 States Internal Revenue Code of 1954, and amendments
9 thereto and other provisions of the laws of the
10 United States relating to federal income taxes as of
11 December 31, 1981 for items of income, deductions,
12 loss or gain earned, incurred or accrued within those
13 taxable years. Notwithstanding other provisions of
14 this subsection, for taxable years ending in 1983,
15 any referenece in this Part to the laws of the United
16 States shall be construed as a reference to the pro-
17 visions of the United States Internal Revenue Code of
18 1954, and amendments thereto and other provisions of
19 the laws of the United States relating to federal in-
20 come taxes as of January 31, 1983 for items of in-
21 come, deductions, loss or gain earned, incurred or
22 accrued within those taxable years.

23 **Sec. 11. Appropriation.** The following funds are
24 appropriated from the General Fund to carry out the
25 purposes of this Act.

26 1985-86

27 FINANCE AND ADMINISTRATION,
28 DEPARTMENT OF

29 Bureau of Taxation

30 All Other \$10,000

31 **Sec. 12. Effective dates.** Sections 1 to 6 of
32 this Act shall be effective June 1, 1985. Section 7
33 of this Act shall be effective October 1, 1985. Sec-
34 tions 8 and 9 of this Act shall be effective with re-
35 gard to deeds offered for recordation on or after
36 April 1, 1985.

37 FISCAL NOTE

38 Fiscal Year Fiscal Year Fiscal Year

	<u>1985</u>	<u>1986</u>	<u>1987</u>
1			
2	General Fund		
3		\$1,138,800	\$1,196,000
4		2,538,600	2,538,600
5		9,380,000	12,569,000
6	\$220,000	1,220,000	1,100,000
7	2,638,400	4,906,300	6,643,000
8		<u>(10,000)</u>	<u> </u>
9	Total	\$2,858,400	\$19,173,700
10	Local Government		
11	Fund		
12		\$61,200	\$64,000
13		136,400	136,400
14		20,000	31,000
15	<u>131,600</u>	<u>263,700</u>	<u>357,000</u>
16	Total	\$131,600	\$481,300
17	County Government		
18	<u>\$13,000</u>	<u>\$70,000</u>	<u>\$60,000</u>
19	Total	\$13,000	\$70,000

20 STATEMENT OF FACT

21 Sections 1 to 6 of this bill impose the general
22 sales tax on cable television service and repeal the
23 sales tax exemption for liquor.

24 Section 7 increases the excise tax on cigarettes
25 by 8¢ per pack. This increase is to be effective on
26 October 1, 1985, the scheduled date of the 8¢ per

1 pack reduction in federal excise tax.

2 Sections 8 and 9 increase the real estate trans-
3 fer tax paid by sellers of real estate. The appor-
4 tionment of this tax is also revised so that counties
5 will receive a 33 1/3% increase over current law.

6 Section 10 updates the state's reference to the
7 Internal Revenue Code thereby providing conformity
8 with the Tax Reform Act of 1984 as enacted by the
9 United States Congress.

10 Section 11 provides an appropriation to purchase
11 new cigarette stamps to implement the excise tax in-
12 crease.

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