

MAINE STATE LEGISLATURE

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(New Draft of H.P. 1885, L.D. 2485)

THIRD SPECIAL SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 2491

H.P. 1894

House of Representatives, September 10, 1984

Reported by the Majority from the Committee on Taxation and 1,600 printed under Joint Rule 2.

Original bill presented by Representative Higgins of Portland. Cosponsored by Representative Kane of South Portland, Representative Cashman of Old Town and Senator Wood of York.

EDWIN H. PERT, Clerk

STATE OF MAINE

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

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

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

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

2-B. Extended cable television services. "Extended cable television services" means all cable television service which is in addition to the minimum service which can be purchased from a cable television supplier including the use of associated equipment for which a charge is made. It does not include installation of the associated equipment for which a separate charge is levied.

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

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

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

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

1 9. Extended cable television service. Every
2 person furnishing extended cable television service.

3 Sec. 4. 36 MRSA §1760, sub-§9-A, as enacted by
4 PL 1973, c. 594, is repealed.

5 Sec. 5. 36 MRSA §1760, sub-§11 is repealed.

6 Sec. 6. 36 MRSA §1760, sub-§36, as enacted by PL
7 1975, c. 741, §33, is repealed.

8 Sec. 7. 36 MRSA §1760, sub-§48 is enacted to
9 read:

10 48. Certain libraries. Sales to any nonprofit
11 free public lending library which is funded in part
12 or wholly by the State or any political subdivision
13 or the federal government.

14 Sec. 8. 36 MRSA §1811, first ¶, as amended by PL
15 1977, c. 198, §6, is further amended to read:

16 A tax is imposed at the rate of 5% on the value
17 of all tangible personal property and, on telephone
18 and telegraph service and on extended cable televi-
19 sion service sold at retail in this State, and upon
20 the rental charged for living quarters in hotels,
21 rooming houses, tourist or trailer camps and the
22 rental charged for automobiles rented on a short-term
23 basis, other than a rental charged to a person en-
24 gaged in the business of renting automobiles, mea-
25 sured by the sale price, except as in chapters 211 to
26 225 provided. Retailers shall pay such tax at the
27 time and in the manner provided, and it shall be in
28 addition to all other taxes.

29 Sec. 9. 36 MRSA §4365, as amended by PL 1983, c.
30 477, Pt. F, sub-Pt. 2, is further amended to read:

31 §4365. Rate of tax

32 A tax is imposed on all cigarettes held in this
33 State by any person for sale, said the tax to be at
34 the rate of 10 14 mills for each cigarette and the
35 payment thereof to be evidenced by the affixing of
36 stamps to the packages containing the cigarettes. If
37 a federal program similar to that provided in Title

1 22, section 3185, becomes effective, this tax is re-
2 duced by one mill for each cigarette. The Governor
3 shall determine by proclamation when the federal pro-
4 gram has become effective. Any cigarette on which a
5 tax has been paid, such payment being evidenced by
6 the affixing of such stamp, shall not be subject to a
7 further tax under this chapter. Nothing contained in
8 this chapter shall be construed to impose a tax on
9 any transaction, the taxation of which by this State
10 is prohibited by the Constitution of the United
11 States.

12 Each unclassified importer shall, within 24 hours
13 after receipt of any unstamped cigarettes in this
14 State, notify the State Tax Assessor of the number of
15 cigarettes received, and the name and address of con-
16 signor. The State Tax Assessor thereupon shall noti-
17 fy the unclassified importer of the amount of the tax
18 due thereon, which shall be at the rate of ~~10~~ 14
19 mills per cigarette. Payment of the amount due the
20 State shall be made within 10 days from mailing date
21 of notice thereof.

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

24 §4641-A. Rate of tax

25 There is imposed a tax upon the privilege of
26 transferring title to real property at the rate of
27 ~~55¢~~ \$1.10 for each \$500 or fractional part thereof,
28 of consideration therefor. The grantor shall be lia-
29 ble for payment of ~~said~~ the tax.

30 Sec. 11. 36 MRSA §4641-B, 5th ¶, as amended by
31 P&SL 1975, c. 78, §21, is further amended to read:

32 Each register of deeds shall, on or before the
33 10th day of each month, pay over to the State Tax As-
34 sessor ~~85%~~ 90% of the tax collected during the previ-
35 ous month. The remaining ~~15%~~ 10% shall be retained
36 for the county by the register of deeds and accounted
37 for to the county treasurer as reimbursement for ser-
38 vices rendered by the county in collecting the tax.

39 Sec. 12. 36 MRSA §5102, sub-§11, as amended by
40 PL 1983, c. 855, §14, is further amended to read:

1 11. Other terms. Any other term used in this
2 Part has the same meaning as when used in a compara-
3 ble context in the laws of the United States relating
4 to federal income taxes, unless a different meaning
5 is clearly required. Any reference in this Part to
6 the laws of the United States shall be construed as a
7 reference to the provisions of the United States In-
8 ternal Revenue Code of 1954, and amendments thereto
9 and other provisions of the laws of the United States
10 relating to federal income taxes as of January 31
11 1983 September 1, 1984. This subsection shall be ef-
12 fective as to items of income, deductions, loss or
13 gain accruing in taxable years ending on or after
14 January 1, 1984 but only to the extent that those
15 items have been earned, received, incurred or accrued
16 on or after that effective date. Notwithstanding
17 other provisions of this subsection, for taxable
18 years ending in 1981 and 1982, any reference in this
19 Part to the laws of the United States shall be con-
20 strued as a reference to the provisions of the United
21 States Internal Revenue Code of 1954, and amendments
22 thereto and other provisions of the laws of the
23 United States relating to federal income taxes as of
24 December 31, 1981 for items of income, deductions,
25 loss or gain earned, incurred or accrued within those
26 taxable years. Notwithstanding other provisions of
27 this subsection, for taxable years ending in 1983,
28 any reference in this Part to the laws of the United
29 States shall be construed as a reference to the pro-
30 visions of the United States Internal Revenue Code of
31 1954, and amendments thereto and other provisions of
32 the laws of the United States relating to federal in-
33 come taxes as of January 31, 1983 for items of in-
34 come, deductions, loss or gain earned, incurred or
35 accrued within those taxable years.

36 **Sec. 13. Appropriation.** The following funds are
37 appropriated from the General Fund to carry out the
38 purposes of this Act.

39 1984-85

40 FINANCE AND ADMINISTRATION,
41 DEPARTMENT OF

42 Bureau of Taxation

1	Section 12	2,238,400	4,906,300	6,643,000
2	Section 13	(108,000)	(200,000)	(210,000)
3		<u>411,480</u>	<u>1,518,400</u>	<u>1,898,000</u>
4	Total	\$4,308,460	\$19,740,300	\$24,940,100
5	Local Government			
6	Fund			
7	Sections 1,2,3,8	\$8,500	\$20,000	\$21,500
8	Section 4	500	650	650
9	Sections 5,6	55,000	136,400	136,400
10	Section 7	(250)	(510)	(520)
11	Section 9		20,000	31,000
12	Section 12	131,600	263,700	357,000
13	Section 13	<u>20,520</u>	<u>81,600</u>	<u>102,000</u>
14	Total	\$215,870	\$521,840	\$648,030
15	County Government			
16	Sections 10,11	\$18,700	\$70,000	\$60,000

17 STATEMENT OF FACT

18 Sections 1, 2, 3 and 8 of this amendment impose a
19 sales tax on cable television services which are be-
20 yond the basic minimum service.

21 Section 4 repeals the sales tax exemption for fu-
22 el used for burning blueberry lands.

23 Sections 5 and 6 remove the sales tax exemption
24 for liquor sold in state or agency stores.

25 Section 7 creates a sales tax exemption for free
26 nonprofit lending librabries.

1 Section 9 increases the excise tax on cigarettes
2 by 8¢ per pack. This increase is to be effective on
3 October 1, 1985, the scheduled date of the 8¢ per
4 pack reduction in federal excise tax.

5 Sections 11 and 12 increase the real estate
6 transfer tax to \$1.10 per \$500 of the selling price
7 of real estate.

8 Section 12 updates the state's reference to the
9 Internal Revenue Code thereby providing conformity
10 with the Tax Reform Act of 1984 as enacted by the
11 United States Congress.

12 Section 13 provides appropriations to cover 4 new
13 auditing positions which are expected to collect \$4
14 for every \$1 spent in the first year and at least \$8
15 for each \$1 spent thereafter.

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