

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
111TH LEGISLATURE
THIRD SPECIAL SESSION

HOUSE AMENDMENT "C" to H.P. 1895, L.D. 2492,
Bill, "AN ACT to Implement the Recommendations of the
Commission on the Status of Education in Maine."

Amend the bill by inserting before the Fiscal
Note the following:

'PART M

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

2-B. Extended cable television services. "Ex-
tended cable television services" means all cable
television service which is in addition to the mini-
mum service which can be purchased from a cable tele-
vision 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.

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

11. Retail sale or sale at retail. "Retail sale"
or "sale at retail" means any sale of tangible per-
sonal property, in the ordinary course of business,
for consumption or use, or for any purpose other than
for resale, except resale as a casual sale, in the
form of tangible personal property, any rental of
living quarters in any hotel, rooming house, tourist
or trailer camp, any rental of automobiles on a
short-term basis, other than rental to a person en-
gaged in the business of renting automobiles, and the
sale of telephone or telegraph service and the sale
of extended cable television service. The term "re-
tail sale" or "sale at retail" includes conditional

HOUSE AMENDMENT "C" to H.P. 1895, L.D. 2492

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

HOUSE AMENDMENT "C" to H.P. 1895, L.D. 2492

1 sale" and "sale at retail" do not include the sale of
2 tangible personal property which becomes an ingredi-
3 ent or component part of, or which is consumed or de-
4 stroyed or loses its identity in the manufacture of,
5 tangible personal property for later sale or lease,
6 other than lease for use in this State, but shall in-
7 clude fuel and electricity but shall not include
8 electricity separately metered and consumed in any
9 electrolytic process for the manufacture of tangible
10 personal property for later sale, nor any fuel oil or
11 coal, the by-products from the burning of which be-
12 come an ingredient or component part of tangible per-
13 sonal property for later sale. "Retail sale" and
14 "sale at retail" do not include the sale, to a person
15 engaged in the business of renting automobiles, of
16 automobiles, or integral parts thereof or accessories
17 thereto, for rental or for use in an automobile
18 rented, on a short-term basis. It shall be consid-
19 ered that tangible personal property is "consumed or
20 destroyed" or "loses its identity" in such manufact-
21 ure, if it has a normal physical life expectancy of
22 less than one year as a ~~useable~~ useable item in the
23 use to which it is applied. "Retail sale" or "sale at
24 retail" do not include the sale of containers, boxes,
25 crates, bags, cores, twines, tapes, bindings,
26 wrappings, labels and other packing, packaging and
27 shipping materials when sold to persons for use in
28 packing, packaging or shipping tangible personal
29 property sold by them or upon which they have per-
30 formed the service of cleaning, pressing, dyeing,
31 washing, repairing or reconditioning in their regular
32 course of business and which are transferred to the
33 possession of the purchaser of such tangible personal
34 property.

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

37 9. Extended cable television service. Every
38 person furnishing extended cable television service.

39 Sec. 4. 36 MRSA §1760, sub-§9-A, as enacted by

HOUSE AMENDMENT "C" to H.P. 1895, L.D. 2492

1 PL 1973, c. 594, is repealed.

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

3 Sec. 6. 36 MRSA §1760, sub-§36, as enacted by PL
4 1975, c. 741, §33, is repealed.

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

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

11 Sec. 8. 36 MRSA §1811, first ¶, as amended by PL
12 1977, c. 198, §6, is further amended to read:

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

26 Sec. 9. 36 MRSA §4365, as amended by PL 1983, c.
27 477, Pt. F, sub-Pt. 2, is further amended to read:

28 §4365. Rate of tax

29 A tax is imposed on all cigarettes held in this
30 State by any person for sale, ~~said~~ the tax to be at
31 the rate of ~~10~~ 14 mills for each cigarette and the
32 payment thereof to be evidenced by the affixing of
33 stamps to the packages containing the cigarettes. If

HOUSE AMENDMENT "C" to H.P. 1895, L.D. 2492

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

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

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

25 §4641-A. Rate of tax

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

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

33 Each register of deeds shall, on or before the
34 10th day of each month, pay over to the State Tax As-
35 sessor ~~85%~~ 90% of the tax collected during the previ-
36 ous month. The remaining ~~15%~~ 10% shall be retained

HOUSE AMENDMENT "c" to H.P. 1895, L.D. 2492

1 for the county by the register of deeds and accounted
2 for to the county treasurer as reimbursement for ser-
3 vices rendered by the county in collecting the tax.

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

6 11. Other terms. Any other term used in this
7 Part has the same meaning as when used in a compar-
8 able context in the laws of the United States relating
9 to federal income taxes, unless a different meaning
10 is clearly required. Any reference in this Part to
11 the laws of the United States shall be construed as a
12 reference to the provisions of the United States In-
13 ternal Revenue Code of 1954, and amendments thereto
14 and other provisions of the laws of the United States
15 relating to federal income taxes as of ~~January 31~~
16 ~~1983~~ September 1, 1984. This subsection shall be ef-
17 fective as to items of income, deductions, loss or
18 gain accruing in taxable years ending on or after
19 January 1, 1984 but only to the extent that those
20 items have been earned, received, incurred or accrued
21 on or after that effective date. Notwithstanding
22 other provisions of this subsection, for taxable
23 years ending in 1981 and 1982, any reference in this
24 Part to the laws of the United States shall be con-
25 strued as a reference to the provisions of the United
26 States Internal Revenue Code of 1954, and amendments
27 thereto and other provisions of the laws of the
28 United States relating to federal income taxes as of
29 December 31, 1981 for items of income, deductions,
30 loss or gain earned, incurred or accrued within those
31 taxable years. Notwithstanding other provisions of
32 this subsection, for taxable years ending in 1983,
33 any reference in this Part to the laws of the United
34 States shall be construed as a reference to the pro-
35 visions of the United States Internal Revenue Code of
36 1954, and amendments thereto and other provisions of
37 the laws of the United States relating to federal in-
38 come taxes as of January 31, 1983 for items of in-
39 come, deductions, loss or gain earned, incurred or
40 accrued within those taxable years.

HOUSE AMENDMENT "c" to H.P. 1895, L.D. 2492

1 Sec. 13. Appropriation. The following funds are
2 appropriated form the General Fund to carry out the
3 purposes of this Act.

4 1984-85

5 FINANCE AND ADMINISTRATION,
6 DEPARTMENT OF

7 Bureau of Taxation

8 Positions (4)

9 Personal Services \$90,000

10 All Other 16,000

11 Capital Expenditures 2,000

12 This appropriation
13 provides funding to
14 support acquisition
15 of 4 auditors who are
16 certified public ac-
17 counts or who have
18 equivalent experience
19 to enhance the bu-
20 reau's audit and col-
21 lection capabilities.

22 _____

23 TOTAL \$108,000

24 Sec. 14. Effective date. Section 9 of this Part
25 shall be effective October 1, 1985. All other sec-
26 tions in this Part shall be effective December 15,
27 1984.'

28 Further amend the bill by striking out all of the
29 Fiscal Note and inserting in its place the following:

30 'FISCAL NOTE

HOUSE AMENDMENT "c" to H.P. 1895, L.D. 2492

1 It is estimated that enactment of this bill will
 2 result in the following impact on revenues:

	<u>Fiscal Year</u>	<u>Fiscal Year</u>	<u>Fiscal Year</u>	
	<u>1985</u>	<u>1986</u>	<u>1987</u>	
5	General Fund			
6	Sections 1,2,3,8	\$172,000	\$375,000	\$400,000
7	Section 4	10,000	12,000	12,000
8	Sections 5,6	1,106,000	2,538,600	2,538,600
9	Section 7	(5,420)	(10,000)	(10,500)
10	Section 9		9,380,000	12,569,000
11	Sections 10,11	476,000	1,220,000	1,100,000
12	Section 12	2,238,400	4,906,300	6,643,000
13	Section 13	(108,000)	(200,000)	(210,000)
14		<u>411,480</u>	<u>1,518,400</u>	<u>1,898,000</u>
15	Total	\$4,308,460	\$19,740,300	\$24,940,100
16	Local Government			
17	Fund			
18	Sections 1,2,3,8	\$8,500	\$20,000	\$21,500
19	Section 4	500	650	650
20	Sections 5,6	55,000	136,400	136,400
21	Section 7	(250)	(510)	(520)
22	Section 9		20,000	31,000

HOUSE AMENDMENT "c" to H.P. 1895, L.D. 2492

1	Section 12	131,600	263,700	357,000
2	Section 13	<u>20,520</u>	<u>81,600</u>	<u>102,000</u>
3	Total	\$215,870	\$521,840	\$648,030
4	County Government			
5	Sections 10,11	\$18,700	\$70,000	\$60,000'

6 Further amend the bill by relettering the Parts
7 to read consecutively.

8 STATEMENT OF FACT

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

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

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

16 Section 7 creates a sales tax exemption for free
17 nonprofit lending libraries.

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

22 Sections 11 and 12 increase the real estate
23 transfer tax to \$1.10 per \$500 of the selling price
24 of real estate.

25 Section 12 updates the state's reference to the
26 Internal Revenue Code thereby providing conformity
27 with the Tax Reform Act of 1984 as enacted by the
28 United States Congress.

HOUSE AMENDMENT "c" to H.P. 1895, L.D. 2492

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

5

7310090984

Filed by Representative Higgins of Portland
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