

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 450

6
7 H.P. 335

House of Representatives, February 6, 1985

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

10 EDWIN H. PERT, Clerk

Presented by Representative Brannigan of Portland.

11
12 STATE OF MAINE
13

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

17 AN ACT to Impose a Sales Tax on Certain
18 Services.
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 amended by PL
23 1983, c. 855, §2, is further amended to read:

24 5. Treasurer of State. An amount equal to 4.75%
25 of the receipts from the taxes imposed under Title
26 36, Parts 3 and 8, and credited to the General Fund,
27 plus an amount equal to \$237,000 of the receipts from
28 the tax imposed under Title 36, Part 3, shall be
29 transferred by the Treasurer of State to the Local
30 Government Fund on the first day of each month.

31 Beginning July 1, 1985, an amount equal to 5.1% of
32 the receipts under Title 36, Parts 3 and 8, and cred-
33 ited to the General Fund, plus an amount equal to
34 \$237,000 of the receipts from the tax imposed under
35 Title 36, Part 3, shall be transferred by the Trea-

1 surer of State to the Local Government Fund on the
2 first day of each month.

3 Beginning February 1, 1986, the Treasurer of State
4 shall, on the first day of each month, transfer to
5 the Local Government Fund an amount equal to 6.1% of
6 the receipts under Title 36, Parts 3 and 8, and cred-
7 ited to the General Fund, plus \$237,000 of the re-
8 ceipts from the tax imposed under Title 36, Part 3.

9 The Treasurer of State shall distribute the balance
10 in the Local Government Fund on the 20th day of each
11 month.

12 Sec. 2. 36 MRSA §1752, sub-§2-C is enacted to
13 read:

14 2-C. Casual sale. "Casual sale" means any iso-
15 lated transaction in which tangible personal property
16 or services are sold, transferred or offered for sale
17 and delivered by the owner, if that sale, transfer
18 offer for sale or delivery is not made in the ordi-
19 nary course of repeated and successive transactions
20 of a like character by the owner. The following
21 types of transactions are specifically excluded for
22 this definition and constitute "retail sales," as de-
23 finied in this section:

24 A. The sale by a registered retailer of tangible
25 personal property which that retailer has used in
26 the course of his business and which is of a like
27 character to that sold in the ordinary course of
28 repeated and successive transactions; and

29 B. Any transaction in which tangible personal
30 property or services are sold, transferred or of-
31 fered for sale by a representative for the
32 owner's account, when the representative is a
33 registered retailer, in which event the regis-
34 tered retailer shall have the same duties re-
35 specting the sale as if he had sold on his own
36 account.

37 Sec. 3. 36 MRSA §1752, sub-§11, as amended by PL
38 1983, c. 859, Pt. M, §§2 and 13, is repealed and the
39 following enacted in its place:

1 11. Retail sale or sale at retail. "Retail
2 sale" or "sale at retail" means any sale of tangible
3 personal property or of services for consumption or
4 use or for any purpose other than resale in the form
5 of tangible personal property, except resale as a ca-
6 sual sale. The term "retail sale" or "sale at re-
7 tail" includes, but is not limited to, the following:

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

10 B. Any rental of automobiles on a short-term ba-
11 sis, other than rental to a person engaged in the
12 business of renting automobiles;

13 C. Any sale of telephone or telegraph service;

14 D. Conditional sales, installment lease sales
15 and any other transfer of tangible personal prop-
16 erty when the title is retained as security for
17 the payment of the purchase price and is intended
18 to be transferred later;

19 E. Sale of products for internal human consump-
20 tion to a person for resale through coin-operated
21 vending machines when sold to a retailer whose
22 gross receipts from the retail sale of tangible
23 personal property derived through sales from
24 vending machines are more than 50% of his gross
25 receipts, which tax shall be paid by the retail-
26 er;

27 F. Except as otherwise provided in this chapter
28 fuel and electricity; and

29 G. Sale of taxable services, as defined in sec-
30 tion 1815.

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

33 11-A. Retail sale or sale at retail further de-
34 finied. The term "retail sale" or "sale at retail"
35 does not include the following:

36 A. Casual sales, as defined in subsection 2-C;

1 B. Any sale by a personal representative in the
2 settlement of an estate, unless the sale is made
3 through a retailer or unless the sale is made in
4 the continuation or operation of a business;

5 C. The sale of tangible personal property which
6 becomes an ingredient or component part of, or
7 which is consumed or destroyed or loses its iden-
8 tity in the manufacture of, tangible personal
9 property for later sale or lease, other than
10 lease for use in this State;

11 D. Electricity separately metered and consumed
12 in any electrolytic process for the manufacture
13 of tangible personal property for later sale;

14 E. Fuel oil or coal, the by-products from the
15 burning of which become an ingredient or compo-
16 nent part of tangible personal property for later
17 sale;

18 F. Sale, to a person engaged in the business of
19 renting automobiles, of automobiles, or integral
20 parts or accessories to automobiles, for rental
21 or for use in an automobile rented on a short-
22 term basis; or

23 G. Sale of containers, boxes, crates, bags,
24 cores, twines, tapes, bindings, wrappings, labels
25 and other packing, packaging and shipping materi-
26 als when sold to persons for use in packing,
27 packaging or shipping tangible personal property
28 sold by them or upon which they have performed
29 the service of cleaning, pressing, dyeing, wash-
30 ing, repairing or reconditioning in their regular
31 course of business and which are transferred to
32 the possession of the purchaser of the tangible
33 personal property.

34 Sec. 5. 36 MRS §1753 is amended to read:

35 §1753. Tax is a levy on consumer

36 The liability for, or the incidence of, the tax
37 on tangible personal property or services provided by
38 chapters 211 to 225 is declared to be a levy on the
39 consumer. The retailer shall add the amount of the

1 tax on such property or services and may state the
2 amount of the taxes separately from the price of ~~such~~
3 the property or services on all price display signs,
4 sales or delivery slips, bills and statements which
5 advertise or indicate the price of ~~such~~ the property
6 or services. This section shall in no way affect the
7 method of collection of ~~such~~ the taxes on ~~such~~ the
8 property or services as now provided by law.

9 Sec. 6. 36 MRSA §1754, sub-§9, as enacted by PL
10 1983, c. 859, Pt. M, §§3 and 13, is amended to read:

11 9. Extended cable television service. Every
12 person furnishing extended cable television service;
13 and

14 Sec. 7. 36 MRSA §1754, sub-§10 is enacted to
15 read:

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

18 Sec. 8. 36 MRSA §1755, as amended by PL 1969, c.
19 18, is further amended to read:

20 §1755. No registration unless tax paid

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

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

37 §1756. Voluntary registration

1 Every seller of tangible personal property or
2 services, not required by section 1754 to register,
3 may register upon such terms as the State Tax Asses-
4 sor may prescribe. Upon registration, he shall have
5 the rights and duties of a person required to be reg-
6 istered and shall be subject to the same penalties,
7 except that his liability may be limited to tax actu-
8 ally collected. The person so registered may at any
9 time surrender his registration certificate and re-
10 quest that the same be canceled. Upon receipt of such
11 the certificate and request, the State Tax Assessor
12 shall grant the same, if it appears to the State Tax
13 Assessor that the registrant has satisfied all lia-
14 bility to the State and that he is not required by
15 law to register. Upon surrender of his certificate,
16 the registered person shall cease to collect sales or
17 use taxes upon sales taking place on and after the
18 date of such that surrender.

19 Sec. 10. 36 MRSA §1811, first ¶, as amended by
20 PL 1983, c. 859, Pt. M, §§7 and 13, is further
21 amended to read:

22 A tax is imposed at the rate of ~~5%~~ 4% on the val-
23 ue of all tangible services as provided in section
24 1815, all tangible personal property, on telephone
25 and telegraph service and on extended cable televi-
26 sion service sold at retail in this State, and upon
27 the rental charged for living quarters in hotels,
28 rooming houses, tourist or trailer camps and the
29 rental charged for automobiles rented on a short-term
30 basis, other than a rental charged to a person en-
31 gaged in the business of renting automobiles, mea-
32 sured by the sale price, except as in chapters 211 to
33 225 provided. Retailers shall pay such the tax at the
34 time and in the manner provided, and it shall be in
35 addition to all other taxes.

36 Sec. 11. 36 MRSA §1812, as amended by PL 1969,
37 c. 295, §3, is repealed and the following enacted in
38 its place:

39 §1812. Adding tax to sale price

40 Every retailer shall add the tax imposed by this
41 chapter to the sale price, except as otherwise pro-
42 vided in this Part. The tax is a part of the price

1 and a debt of the purchaser to the retailer until
2 paid. It may be recovered at law in the same manner
3 as the purchase price. When the sale price includes
4 a fraction of a dollar, the tax shall be added to the
5 sale price according to the following schedules:

6	<u>Amount of Sale Price</u>	<u>Amount of Tax</u>
7	<u>\$0.01 to \$0.10, inclusive</u>	<u>0¢</u>
8	<u>.11 to .25, inclusive</u>	<u>1¢</u>
9	<u>.26 to .50, inclusive</u>	<u>2¢</u>
10	<u>.51 to .75, inclusive</u>	<u>3¢</u>
11	<u>.76 to .99, inclusive</u>	<u>4¢</u>

12 When the sale price exceeds \$1, the tax is 4¢ for
13 each whole dollar plus the amount indicated in this
14 section for each fraction of a dollar.

15 When several articles are purchased at the same
16 time, the tax shall be computed on the total amount
17 of the items.

18 The retailer shall retain breakage under this
19 section as compensation for the collection of the
20 tax.

21 Sec. 12. 36 MRSA §1813, as amended by PL 1977,
22 c. 696, §276, is further amended to read:

23 §1813. Illegal collection of sales tax prohibited

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

29 Sec. 13. 36 MRSA §1815 is enacted to read:

30 §1815. Taxable services

31 The tax imposed by this chapter is imposed on the
32 total amount received in money, credits, property or
33 other consideration, valued in money, from services
34 rendered, furnished or performed in this State, ex-
35 cept where that service is performed on tangible per-
36 sonal property delivered into interstate commerce or

1 is used in processing of tangible personal property
2 for use in taxable retail sales or services. For
3 purposes of this chapter, the term "taxable services"
4 includes the following:

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

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

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

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

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

39 6. Repair services. Repair services, including
40 motor vehicle repair; oilers and lubricators; motor
41 vehicle washing, waxing and polishing; wrecker ser-

1 vice; repairs of boats, bicycles, machines, motors,
2 tin and sheet metal, roofs, shingles, glass electrical
3 circuits, household appliances, televisions, ra-
4 dios, jewelry, watches, office and business machines;
5 furniture, rug and upholstery repair and cleaning;
6 swimming pool cleaning; wood preparation; welding;
7 finishers; polishers; and exterminators; and

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

14 Sec. 14. 36 MRSA §1861, as amended by PL 1969,
15 c. 295, §4, is further amended to read:

16 §1861. Purchase of tangible personal property

17 A tax is imposed on the storage, use or other
18 consumption in this State of tangible personal prop-
19 erty, purchased at retail sale, at the rate of 5% 4%
20 of the sale price. Every person so storing, using or
21 otherwise consuming is liable for the tax until he
22 has paid ~~the same~~ it or has taken a receipt from ~~his~~
23 ~~the~~ seller, thereto duly authorized by the State Tax
24 Assessor, showing that the seller has collected the
25 sales or use tax, in which case the seller shall be
26 liable for it. Retailers registered under section
27 1754 or 1756 shall collect ~~such~~ the tax and make re-
28 mittance to the State Tax Assessor. The amount of
29 ~~such~~ that tax payable by the purchaser shall be that
30 provided in the case of sales taxes by section 1812.
31 When tangible personal property purchased for resale
32 is withdrawn from inventory by the retailer for his
33 own use, use tax liability accrues at the date of
34 withdrawal.

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STATEMENT OF FACT

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This bill enacts one of the major recommendations contained in the 1975 report of the Governor's Tax Policy Committee, which is the extension of the sales tax to certain services. It uses the increased revenues from the extension to fund increased revenue sharing with municipalities and to reduce the overall sales tax rate to 4%.

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This measure accomplishes substantial tax reform by making the sales tax more reflective of "luxury" consumption and broadening the sales tax base to reflect more discretionary purchases. It is estimated that increased revenues would be more than sufficient to permit a reduction in the sales tax to 4% and to increase municipal revenue sharing from 5.1% to 6.1%.

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