

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 766
6

7 H.P. 539

House of Representatives, February 27, 1985

8 On motion of Representative Higgins of Portland, referred to the
9 Committee on Taxation. Sent up for concurrence and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Higgins of Portland.
11 Cosponsored by Senator Bustin of Kennebec.

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 Media
18 Advertising.
19

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

22 Sec. 1. 36 MRSA §1752, sub-§6 is enacted to
23 read:

24 6-A. Media advertising. "Media advertising"
25 means any representation disseminated by means of ra-
26 dio or television broadcast or publication in a news-
27 paper or magazine as a direct or indirect inducement
28 or incentive for the purchase or rental of goods or
29 services.

30 Sec. 2. 36 MRSA §1752, sub-§11, as amended by PL
31 1983, c. 859, Pt. M, §§2 and 13, is further amended
32 to read:

33 11. Retail sale or sale at retail. "Retail sale"
34 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, the
9 sale of telephone or telegraph service and, the sale
10 of extended cable television service and the sale of
11 media advertising time or space. The term "retail
12 sale" or "sale at retail" includes conditional sales,
13 installment lease sales, and any other transfer of
14 tangible personal property when the title is retained
15 as security for the payment of the purchase price and
16 is intended to be transferred later. The term "re-
17 tail sale" or "sale at retail" also means sale of
18 products for internal human consumption to a person
19 for resale through coin-operated vending machines
20 when sold to a retailer whose gross receipts from the
21 retail sale of tangible personal property derived
22 through sales from vending machines are more than 50%
23 of his gross receipts, which tax shall be paid by the
24 retailer to the State. The term "retail sale" or
25 "sale at retail" does not include any sale by an ex-
26 ecutor or administrator in the settlement of an es-
27 tate, unless such sale is made through a retailer, or
28 unless such sale is made in the continuation or oper-
29 ation of a business; nor does the term include any
30 other isolated transaction in which any tangible per-
31 sonal property is sold, transferred, offered for sale
32 or delivered by the owner thereof, such sale, trans-
33 fer, offer for sale, or delivery not being made in
34 the ordinary course of repeated and successive trans-
35 actions of a like character by such owner, such
36 transactions being elsewhere sometimes referred to as
37 "casual sales." "Casual sales" includes transactions
38 by a civic, religious or fraternal organization,
39 which is not a registered retailer, at bazaars,
40 fairs, rummage sales, picnics or similar events but
41 not exceeding 8 days in a calendar year. The sale by
42 a registered retailer of tangible personal property,
43 which that retailer has used in the course of his or
44 its business, is not a casual sale and is a retail
45 sale subject to taxation under this Part, if that
46 property is of a like character to that sold in the
47 ordinary course of repeated and successive transac-

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

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STATEMENT OF FACT

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The purpose of this bill is to provide that sales tax be imposed on the sale of media advertising time or space.

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