

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 907

6  
7 H.P. 639

House of Representatives, March 1, 1985

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

10 EDWIN H. PERT, Clerk

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

11  
12 STATE OF MAINE  
13

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

17 AN ACT to Provide for a Sales Tax on the  
18 Advertising of Alcoholic Beverages.  
19

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

22 Sec. 1. 36 MRSA §1752, sub-§6-A 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 for the purpose of  
12 advertising alcoholic beverages. The term "retail  
13 sale" or "sale at retail" includes conditional sales,  
14 installment lease sales, and any other transfer of  
15 tangible personal property when the title is retained  
16 as security for the payment of the purchase price and  
17 is intended to be transferred later. The term "re-  
18 tail sale" or "sale at retail" also means sale of  
19 products for internal human consumption to a person  
20 for resale through coin-operated vending machines  
21 when sold to a retailer whose gross receipts from the  
22 retail sale of tangible personal property derived  
23 through sales from vending machines are more than 50%  
24 of his gross receipts, which tax shall be paid by the  
25 retailer to the State. The term "retail sale" or  
26 "sale at retail" does not include any sale by an ex-  
27 ecutor or administrator in the settlement of an es-  
28 tate, unless such sale is made through a retailer, or  
29 unless such sale is made in the continuation or oper-  
30 ation of a business; nor does the term include any  
31 other isolated transaction in which any tangible per-  
32 sonal property is sold, transferred, offered for sale  
33 or delivered by the owner thereof, such sale, trans-  
34 fer, offer for sale, or delivery not being made in  
35 the ordinary course of repeated and successive trans-  
36 actions of a like character by such owner, such  
37 transactions being elsewhere sometimes referred to as  
38 "casual sales." "Casual sales" includes transactions  
39 by a civic, religious or fraternal organization,  
40 which is not a registered retailer, at bazaars,  
41 fairs, rummage sales, picnics or similar events but  
42 not exceeding 8 days in a calendar year. The sale by  
43 a registered retailer of tangible personal property,  
44 which that retailer has used in the course of his or  
45 its business, is not a casual sale and is a retail  
46 sale subject to taxation under this Part, if that  
47 property is of a like character to that sold in the

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

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STATEMENT OF FACT

2           The purpose of this bill is to provide that a  
3 sales tax be imposed on the sale of media advertising  
4 time or space advertising alcoholic beverages.

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