

# MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 318, L.D. 407)  
2 (New Title)  
3 FIRST REGULAR SESSION  
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5 ONE HUNDRED AND TWELFTH LEGISLATURE  
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7 Legislative Document

No. 1576

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9 H.P. 1085

House of Representatives, May 23, 1985

10 Reported by Representative Higgins from the Committee on Taxation  
11 and printed under Joint Rule 2. Original bill presented by Representative  
12 Swazey of Bucksport. Cosponsored by Senator Diamond of Cumberland.

EDWIN H. PERT, Clerk

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13  
14 STATE OF MAINE  
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16 IN THE YEAR OF OUR LORD  
17 NINETEEN HUNDRED AND EIGHTY-FIVE  
18

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19 AN ACT to Change the Sales Tax Treatment of  
20 Property Used in the Production of  
21 Tangible Personal Property.  
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23 Be it enacted by the People of the State of Maine as  
24 follows:

25 Sec. 1. 36 MRSA §1752, sub-§7-B, as enacted by  
26 PL 1977, c. 477, §6, is repealed and the following  
27 enacted in its place:

28 7-B. Machinery and equipment. "Machinery and  
29 equipment" means machinery, equipment and parts and  
30 attachments for machinery and equipment, but excludes  
31 foundations for machinery and equipment and special  
32 purpose buildings used to house or support machinery  
33 and equipment.

34 Sec. 2. 36 MRSA §1752, sub-§11, as amended by PL  
35 1983, c. 859, Pt. M, §§2 and 13, is further amended  
36 to read:

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

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

45 Sec. 3. 36 MRSA §1760, sub-§31, as repealed and  
46 replaced by PL 1977, c. 477, §11, is amended to  
47 read:

