

MAINE STATE LEGISLATURE

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(New Draft of H.P. 284, L.D. 354)
SECOND REGULAR SESSION

ONE HUNDRED AND TWELFTH LEGISLATURE

Legislative Document

No. 2193

H.P. 1555

House of Representatives, March 17, 1986

Reported by Representative Cashman from the Committee on Taxation and printed under Joint Rule 2. Original bill sponsored by Representative Cashman of Old Town. Cosponsored by Senator Diamond of Cumberland, Representative Zirkilton of Mount Desert and Senator Twitchell of Oxford.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SIX

AN ACT to Phase Out the Sales and Use Tax on
Energy Used in Manufacturing.

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

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

6-A. Manufacturing facility. "Manufacturing facility" means a site at which is located machinery and equipment used directly and primarily in the production of tangible personal property intended to be sold or leased ultimately for final use or consumption. It includes the machinery and equipment and all machinery, equipment, structures and facilities located at the site and used in support of production or associated with the production.

Sec. 2. 36 MRSA §1752, sub-§11, as amended by PL 1985, c. 276, §2, is further amended to read:

1 11. Retail sale or sale at retail. "Retail
2 sale" or "sale at retail" means any sale of tangible
3 personal property, in the ordinary course of busi-
4 ness, for consumption or use, or for any purpose oth-
5 er than for resale, except resale as a casual sale,
6 in the form of tangible personal property, any rental
7 of living quarters in any hotel, rooming house, tour-
8 ist 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 of the property, such
34 sale, transfer, offer for sale, or delivery not being
35 made in the ordinary course of repeated and succes-
36 sive transactions of a like character by such owner,
37 such transactions being elsewhere sometimes referred
38 to as "casual sales." "Casual sales" includes trans-
39 actions by a civic, religious or fraternal organiza-
40 tion, 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 directly and primarily
13 in the production of, tangible personal property for
14 later sale or lease, other than lease for use in this
15 State, but shall include fuel and electricity but
16 shall not include electricity separately metered and
17 consumed in any electrolytic process for the manufac-
18 ture of tangible personal property for later sale,
19 nor any fuel oil or coal, the by-products from the
20 burning of which become an ingredient or component
21 part of tangible personal property for later sale.
22 "Retail sale" and "sale at retail" do not include the
23 sale, to a person engaged in the business of renting
24 automobiles, of automobiles, or integral parts of au-
25 tomobiles or accessories to automobiles, for rental
26 or for use in an automobile rented, on a short-term
27 basis. It shall be considered that tangible personal
28 property is "consumed or destroyed" or "loses its
29 identity" in such manufacture, if it has a normal
30 physical life expectancy of less than one year as a
31 usable item in the use to which it is applied. "Re-
32 tail sale" or "sale at retail" do not include the
33 sale of containers, boxes, crates, bags, cores,
34 twines, tapes, bindings, wrappings, labels and other
35 packing, packaging and shipping materials when sold
36 to persons for use in packing, packaging or shipping
37 tangible personal property sold by them or upon which
38 they have performed the service of cleaning, press-
39 ing, dyeing, washing, repairing or reconditioning in
40 their regular course of business and which are trans-
41 ferred to the possession of the purchaser of such
42 tangible personal property.

43 Sec. 3. 36 MRSA §1760, sub-§9-D is enacted to
44 read:

9-D. Fuel and electricity used at a manufacturing facility. Ninety-five percent of the sale price of all fuel and electricity purchased for use at a manufacturing facility. The sales or use tax rate applicable to 95% of the sale price of such fuel and electricity shall be progressively reduced to 0 according to the following schedule:

<u>Date of purchase</u>	<u>Sales or use tax rate</u>
July 1, 1987, to June 30, 1988	4%
July 1, 1988, to June 30, 1989	3%
July 1, 1989, to June 30, 1990	2%
July 1, 1990, to June 30, 1991	1%
July 1, 1991, and thereafter	0%

Sec. 4. Effective date. Section 2 of this Act shall take effect July 1, 1991.

FISCAL NOTE

This new draft will not have any effect on revenues in the current biennium. Future losses in General Fund revenue are estimated to be as follows:

Fiscal Year	General Fund	Local Government Fund
1987-88	(\$ 3,906,600)	(\$ 209,900)
1988-89	(\$ 8,585,300)	(\$ 461,400)
1989-90	(\$13,728,300)	(\$ 737,800)
1990-91	(\$19,357,200)	(\$1,040,300)
1991-92	(\$25,493,400)	(\$1,320,000)

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STATEMENT OF FACT

2 This new draft phases out from July 1, 1987, to
3 June 30, 1991, the sales and use tax on 95% of the
4 fuel and electricity used at manufacturing facilities,
5 with total elimination of the tax on such 95%
6 portion by June 30, 1991. A manufacturing facility
7 means a site at which is located machinery and equipment
8 used directly and primarily in the production of
9 tangible personal property intended to be sold or
10 leased ultimately for final use or consumption and
11 includes the machinery and equipment and all machinery,
12 equipment, structures and facilities located at
13 the site and used in support of production or associated
14 with production. It includes, for example, the
15 manufacturing machinery and equipment, pollution control
16 facilities, production buildings, administrative buildings,
17 machine shops and laboratories. The manufacturing site
18 includes interrelated areas. For example, an area which
19 would otherwise be part of a manufacturing site would not
20 be excluded because of a road, water or the like separating
21 it from the rest of the manufacturing site or where it is
22 separated from the rest of the manufacturing site and
23 connected to it by a pipeline, as may be the case with
24 pollution control facilities. Since this exemption would
25 exempt 95% of all fuel and electricity used at the
26 manufacturing site, it would exempt, for example, fuel
27 used in boilers to produce steam or electricity which
28 is used by manufacturing machines or pollution control
29 facilities, or to provide heat, light or power to
30 production areas, administrative offices, machine shops
31 and laboratories and all electricity purchased for any
32 of the foregoing uses. This new draft allows Maine
33 manufacturers to be more competitive with manufacturers
34 in other states and also reduces the fuel costs of the
35 State utilities which are passed on to their customers.

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