

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1864

H.P. 1362 House of Representatives, June 15, 1987
Reported by Representative MAYO from the Committee on
Taxation pursuant to H.P. 1268 and printed under Joint Rule 2.
EDWIN H. PERT, Clerk

STATE OF MAINE

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

AN ACT Relating to Tax Exemptions.

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3 Emergency preamble. Whereas, Acts of the Legis-
4 lature do not become effective until 90 days after
5 adjournment unless enacted as emergencies; and

6 Whereas, changes in state law are necessary in
7 order to improve the fairness of the state tax sys-
8 tem; and

9 Whereas, it is necessary to enact these changes
10 without delay in order to avoid continuation of un-
11 necessary inequities; and

12 Whereas, in the judgment of the Legislature,
13 these facts create an emergency within the meaning of
14 the Constitution of Maine and require the following

1 legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

6 **Sec. 1. 8 MRSA §367**, as enacted by PL 1973, c. 570, §1, is repealed.

8 **Sec. 2. 8 MRSA §423**, as enacted by PL 1983, c. 732, §1, is repealed.

10 **Sec. 3. 36 MRSA §1752**, sub-§7-C is enacted to read:

12 7-C. Nonprofit. "Nonprofit" means an organization which has been determined to be exempt from taxation under the United States Internal Revenue Code, Section 501(c).

16 **Sec. 4. 36 MRSA §1760**, sub-§16, as amended by PL 1983, c. 560, §§2 and 6, is further amended to read:

18 16. Hospitals, research centers, churches and schools. Sales to incorporated hospitals, incorporated nonprofit nursing homes licensed by the Department of Human Services, incorporated nonprofit board-
19 ing care facilities licensed by the Department of Human Services, incorporated nonprofit home health care
20 agencies certified under the United States Social Security Act of 1965, Title XVIII, as amended, incorporated
21 nonprofit rural community health centers engaged in, or providing facilities for, the delivery
22 of comprehensive primary health care, incorporated nonprofit dental health centers, institutions incor-
23 porated as nonprofit corporations for the sole purpose of conducting medical research or for the purpose
24 of establishing and maintaining laboratories for scientific study and investigation in the field of
25 biology or ecology or operating educational television or radio stations, schools and regularly or-
26 ganized churches or houses of religious worship, excepting sales, storage or use in activities which are
27 mainly commercial enterprises. "Schools" mean means
28 incorporated nonstock educational institutions, including institutions empowered to confer educational,
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1 literary or academic degrees, which have a regular
2 faculty, curriculum and organized body of pupils or
3 students in attendance throughout the usual school
4 year, which keep and furnish to students and others
5 records required and accepted for entrance to schools
6 of secondary, collegiate or graduate rank, no part of
7 the net earnings of which inures to the benefit of
8 any individual.

9 **Sec. 5. 36 MRSa §1760, sub-§§56 to 59 are en-**
10 **acted to read:**

11 56. Nonprofit youth organizations. Sales to
12 nonprofit youth organizations whose primary purpose
13 is to provide athletic instruction in a nonresiden-
14 tial setting.

15 57. Self-help literature on alcoholism. Sales
16 of self-help literature relating to alcoholism to al-
17 coholics anonymous groups.

18 58. Portable classrooms. Sales of tangible per-
19 sonal property to be physically incorporated in and
20 become a part of portable classrooms for lease to
21 schools entitled to exemption under subsection 16.
22 If the portable classrooms are used for an otherwise
23 taxable use within 2 years from the date of the first
24 use, the lessor shall become liable for the use tax
25 based on the original sale price.

26 59. Sales to certain incorporated nonprofit edu-
27 cational organizations. Incorporated nonprofit edu-
28 cational organizations which are receiving, or have
29 received, funding from the Department of Educational
30 and Cultural Services, and which provide educational
31 programs specifically designed for teaching young
32 people how to make decisions about drugs, alcohol and
33 interpersonal relationships at a residential camp
34 setting.

35 **Sec. 6. 36 MRSa §1760, sub-§60 is enacted to**
36 **read:**

37 60. Sales to incorporated nonprofit animal shel-
38 ters. Sales of materials and items used in the oper-
39 ation and maintenance of incorporated nonprofit ani-
40 mal shelters and maintenance and care of any animal
41 housed in those shelters.

1 Sec. 7. 36 MRSA §2514, as amended by PL 1985, c.
2 783, §12, is further amended to read:

3 §2514. Applicability of provisions

4 Sections 2512 and 2513 shall not apply to the
5 taxation of any annuity consideration on any annuity
6 contract issued prior to August 1, 1943. Sections
7 2512 and 2513 shall not apply to any premium from an
8 insurance contract, which premium is received prior
9 to October 1, 1969, or any consideration, regardless
10 of when received, from any retirement annuity con-
11 tracts issued by an insurance or annuity company or-
12 ganized and operated without profit to any private
13 shareholder or individual exclusively for the purpose
14 of aiding nonproprietary educational and scientific
15 institutions pursuant to a retirement program estab-
16 lished under ~~section 403-(b)~~ of the United States In-
17 ternal Revenue Code, Section 403 (b). Premiums or
18 considerations received from life insurance policies
19 or annuity contracts issued in connection with the
20 funding of a deferred compensation plan described under
21 the United States Internal Revenue Code, Section
22 457, a pension, annuity or profit-sharing plan or in-
23 dividual retirement account or annuity qualified or
24 exempt under ~~sections 401, 403, 404, 408 or 501~~ of
25 the United States Internal Revenue Code, Section 401,
26 403, 404, 408 or 501, as now or hereafter amended or
27 renumbered from time to time, shall be exempt from
28 tax.

29 Sec. 8. 36 MRSA §2524 is enacted to read:

30 §2524. Credit for employer-assisted day care

31 1. Credit allowed. A taxpayer under this chap-
32 ter constituting an employing unit is allowed a cred-
33 it against the tax imposed by this section for each
34 taxable year equal to the lowest of:

35 A. Five thousand dollars;

36 B. Twenty percent of the costs incurred by the
37 taxpayer in providing day care service for chil-
38 dren of employees of the taxpayer; or

1 C. One hundred dollars for each child of an em-
2 ployee of the taxpayer enrolled on a full-time
3 basis, or each full-time equivalent, throughout
4 the taxable year in day care service provided by
5 the taxpayer or in the first year that the tax-
6 payer provides day care services, for each child
7 enrolled on a full-time basis, or each full-time
8 equivalent, on the last day of the year.

9 2. Definitions. As used in this section, unless
10 the context indicates otherwise, the following terms
11 have the following meanings.

12 A. "Employing unit" has the same meaning as in
13 Title 26, section 1043.

14 B. "Providing day care services" means expending
15 funds to build, furnish, license, staff, operate
16 or subsidize a day care center licensed by the
17 Department of Human Services to provide day care
18 services to children of employees of the taxpayer
19 at no profit to the taxpayer or to contract with
20 a day care facility licensed by or registered
21 with the department to provide day care services
22 to children of the employees of the taxpayer.
23 "Providing day care services" also includes the
24 provision of day care resource and referral ser-
25 vices to employees and the provision of vouchers
26 by an employer to an employee for purposes of
27 paying for day care services for children of the
28 employee.

29 3. Carryover; carry back. The amount of the
30 credit that may be used by a taxpayer for a taxable
31 year may not exceed the amount of tax otherwise due
32 under this section. Any unused credit may be carried
33 over to the following year or years for a period not
34 to exceed 15 years or it may be carried back for a
35 period not to exceed 3 years.

36 Sec. 9. 36 MRSA c. 704-A is enacted to read:

37 CHAPTER 704-A

38 ILLEGAL DRUGS

39 §4421. Definitions

1 As used in this chapter, unless the context indi-
2 cates otherwise, the following terms have the follow-
3 ing meanings.

4 1. Dealer. "Dealer" means a person, who in vio-
5 lation of state law, manufactures, produces, ships,
6 transports or imports into the State or in any manner
7 acquires or possesses more than 42-1/2 grams of mari-
8 juana, 7 or more grams of any scheduled drug or 10 or
9 more dosage units of any scheduled drug which is not
10 sold by weight.

11 2. Marijuana. "Marijuana" has the same meaning
12 as that provided in Title 17-A, chapter 45.

13 3. Scheduled drug. "Scheduled drug" has the same
14 meaning as that provided in Title 17-A, chapter 45,
15 except that it does not include marijuana.

16 §4422. Administration

17 The State Tax Assessor shall adopt a uniform sys-
18 tem of providing, affixing and displaying official
19 stamps, official labels or other official indicia for
20 marijuana and scheduled drugs on which a tax is im-
21 posed.

22 §4423. Tax payment required for possession

23 No dealer may possess any marijuana or scheduled
24 drug upon which a tax is imposed by this chapter, un-
25 less the tax has been paid on the marijuana or other
26 scheduled drug as evidenced by a stamp or other offi-
27 cial indicia.

28 §4424. No immunity

29 Nothing in this chapter may in any manner provide
30 immunity for a dealer from criminal prosecution under
31 state law.

32 §4425. Pharmaceuticals

33 Nothing in this chapter requires persons regis-
34 tered under Title 32, chapter 41, or otherwise law-
35 fully in possession of marijuana or a scheduled drug
36 to pay the tax required under this chapter.

1 §4426. Tax rate

2 A tax is imposed on marijuana and scheduled drugs
3 at the following rates:

4 A. On each gram or portion of a gram of marijuana,
5 \$3.50; and

6 B. On each gram of scheduled drug, or portion of
7 a gram, \$200; or

8 C. On each 50 dosage units of a scheduled drug
9 that is not sold by weight, or portion of those
10 dosage units, \$2,000.

11 §4427. Penalties for violation

12 1. Tax penalty. Any dealer violating this chapter
13 is subject to a penalty of 100% of the tax in addition
14 to the tax imposed by this chapter.

15 2. Criminal penalty. A dealer distributing or
16 possessing marijuana or scheduled drugs without affixing
17 the appropriate stamps, labels or other indicia is guilty of a Class C crime.
18

19 §4428. Stamps

20 The State Tax Assessor shall make available
21 stamps, labels or other indicia to be affixed to all
22 marijuana or scheduled drugs. The purchaser shall pay
23 100% of face value for each stamp, label or other indicia
24 at the time of the purchase.

25 §4429. Reports

26 Any law enforcement agency which seizes or confiscates
27 marijuana or scheduled drugs shall file a report with the State Tax Assessor
28 on a form prescribed by the State Tax Assessor. The report shall
29 include the dealer's name, address and social security number,
30 an inventory of the contraband and other information required by the State Tax Assessor.
31 The report shall be filed within 30 days of the seizure or
32 confiscation of the property.
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35 §4430. Payment due

1 1. Stamps affixed. When a dealer purchases, ac-
2 quires, transports or imports into this State mari-
3 juana or scheduled drugs on which a tax is imposed by
4 this chapter, and if the indicia evidencing the pay-
5 ment of the tax have not already been affixed, the
6 dealer shall have them permanently affixed to the
7 packaging of all marijuana or scheduled drug immedi-
8 ately after receiving the substance. Each stamp or
9 other official indicia may be used only once.

10 2. Payable on possession. Taxes imposed upon
11 marijuana or scheduled drugs by this chapter are due
12 and payable immediately upon acquisition or posses-
13 sion in this State by a dealer.

14 §4431. Burden of proof

15 The tax and penalties assessed by the State Tax
16 Assessor are presumed to be valid and correctly de-
17 termined and assessed. The burden is upon the taxpay-
18 er to show their incorrectness or invalidity.

19 §4432. Confidentiality

20 No information contained in a report or return
21 required by this chapter may be used against the
22 dealer in any criminal proceeding, unless indepen-
23 dently obtained, except in connection with a proceed-
24 ing involving taxes due under this chapter from the
25 taxpayer making the return.

26 Sec. 10. 36 MRSA §5127, sub-§2, as repealed and
27 replaced by 1985, c. 766, §1, is amended to read:

28 2. Income tax credit for child and dependent
29 care expenses. A resident individual shall be allowed
30 a credit against the tax otherwise due under this
31 Part in the amount of ~~16% of the federal tax credit~~
32 ~~allowable for child care expenses in tax year 1986;~~
33 20% of the federal tax credit allowable for child and
34 dependent care expenses in tax year 1987; and 25% of
35 the federal tax credit allowable for child and
36 dependent care expenses thereafter. In no case ~~will~~
37 may this credit reduce the Maine income tax to less
38 than zero.

39 Sec. 11. 36 MRSA §5217 is enacted to read:

1 §5217. Employer-assisted day care

2 1. Credit allowed. A taxpayer constituting an
3 employing unit is allowed a credit against the tax
4 imposed by this Part for each taxable year equal to
5 the lowest of:

6 A. Five thousand dollars;

7 B. Twenty percent of the costs incurred by the
8 taxpayer in providing day care service for chil-
9 dren of employees of the taxpayer; or

10 C. One hundred dollars for each child of an em-
11 ployee of the taxpayer enrolled on a full-time
12 basis, or each full-time equivalent, throughout
13 the taxable year in day care service provided by
14 the taxpayer or in the first year that the tax-
15 payer provides day care services, for each child
16 enrolled on a full-time basis, or each full-time
17 equivalent, on the last day of the year.

18 2. Definitions. As used in this section, unless
19 the context indicates otherwise, the following terms
20 have the following meanings.

21 A. "Employing unit" has the same meaning as in
22 Title 26, section 1043.

23 B. "Providing day care services" means expending
24 funds to build, furnish, license, staff, operate
25 or subsidize a day care center licensed by the
26 Department of Human Services to provide day care
27 services to children of employees of the taxpayer
28 at no profit to the taxpayer or to contract with
29 a day care facility licensed by or registered
30 with the department to provide day care services
31 to children of the employees of the taxpayer.
32 "Providing day care services" also includes the
33 provision of day care resource and referral ser-
34 vices to employees and the provision of vouchers
35 by an employer to an employee for purposes of
36 paying for day care services for children of the
37 employee.

38 3. Carryover; carry back. The amount of the
39 credit that may be used by a taxpayer for a taxable

1 year may not exceed the amount of tax otherwise due
2 under this section. Any unused credit may be carried
3 over to the following year or years for a period not
4 to exceed 15 years or it may be carried back for a
5 period not to exceed 3 years.

6 **Emergency clause.** In view of the emergency cited
7 in the preamble, this Act shall take effect July 1,
8 1987, except that section 6 takes effect October 1,
9 1988. Sections 1, 2, 7 and 10 apply to tax years be-
10 ginning on or after January 1, 1987. Sections 8 and
11 11 apply to tax years beginning on or after January
12 1, 1988.

13 FISCAL NOTE

14 It is estimated that this bill will have the fol-
15 lowing effect on revenues:

	GENERAL FUND		LOCAL GOVERNMENT FUND	
	<u>1987-88</u>	<u>1988-89</u>	<u>1987-88</u>	<u>1988-89</u>
18 Sections 1, 2				
19 Taxation of				
20 Lottery	\$198,500	\$241,100	\$10,650	\$12,900
21 Section 4				
22 boarding care				
23 facilities	(15,870)	(17,250)	(850)	(925)
24 Section 5				
25 youth athlet-				
26 ic organiza-				
27 tions	(104,535)	(113,625)	(5,660)	(6,150)
28 Alcoholism				
29 literature	(2,024)	(2,200)	(110)	(120)
30 Portable				
31 classrooms	(10,120)	(11,000)	(550)	(600)
32 Certain edu-				
33 cational or-				
34 ganizations	(1,920)	(2,085)	(105)	(115)
35 Section 6 an-				

1	imal shelters		(3,800)		(200)
2	Section 7 de-				
3	ferred com-				
4	pensation	(93,125)	(74,500)		
5	Sections 8				
6	and 11 em-				
7	ployer child				
8	care credit		(37,060)		(2,040)
9	Section 9 il-				
10	legal drugs	50,000	50,000		
11	Section 10				
12	dependent				
13	care credit	(20,900)	(25,600)	(1,100)	(1,400)
14					
15	Totals	<u> \$6</u>	<u> \$3,980</u>	<u> \$1,275</u>	<u> \$1,400</u>

16 STATEMENT OF FACT

17 This bill makes the following changes in the tax
18 laws of this State.

19 Sections 1 and 2 repeal the income tax exemptions
20 for winnings from the Maine State Lottery and the
21 Tri-State Lottery.

22 Section 3 adds a definition of "nonprofit" to the
23 sales tax law for administrative clarity.

24 Section 4 adds a sales tax exemption for licensed
25 nonprofit boarding care facilities.

26 Section 5 adds sales tax exemptions for certain
27 youth athletic organizations, self-help literature
28 sold to alcoholics anonymous organizations, portable
29 classrooms and certain incorporated nonprofit educa-
30 tional organizations.

31 Section 6 also exempts incorporated nonprofit an-
32 imal shelters from the sales tax.

33 Section 7 exempts state employee deferred compen-

1 sation plans from the insurance premium tax.

2 Section 8 provides an employer child care credit
3 to the insurance premium tax.

4 Section 9 established an excise tax on illegal
5 drugs.

6 Section 10 extends the child care credit to con-
7 form to the extension of the federal credit by in-
8 cluding dependents other than children.

9 Section 11 provides an employer child care credit
10 to the income tax.

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