

MAINE STATE LEGISLATURE

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L.D. 603
(Filing No. S- 346)

STATE OF MAINE
SENATE
114TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT " A" to COMMITTEE AMENDMENT "B" to H.P.
438, L.D. 603, Bill, "An Act to Extend the Exemption for Sales
Tax for Certain Instrumentalities of Interstate or Foreign
Commerce"

Amend the amendment by striking out everything after the
title and before the statement of fact and inserting in its place
the following:

'Amend the bill by striking out everything after the
enacting clause and before the statement of fact and inserting in
its place the following:

'Sec. 1. 36 MRSA §1760, sub-§41, as amended by PL 1987, c.
497, §38, is further amended to read:

41. Certain instrumentalities of interstate or foreign
commerce. The sale of a vehicle, railroad rolling stock,
aircraft or watercraft which is placed in use by the purchaser
or, in the case of a vehicle, by either the purchaser or lessee
as an instrumentality of interstate or foreign commerce within 30
days after that sale and which is used by the purchaser or, in
the case of a vehicle, by either the purchaser or lessee not less
than 80% of the time for the next 2 years as an instrumentality
of interstate or foreign commerce and, in the case of a vehicle,
registered in Maine for that 2-year period. The State Tax
Assessor may for good cause extend for not more than 60 days the
time for placing the instrumentality in use in interstate or
foreign commerce. For purposes of this subsection, property is
"placed in use as an instrumentality of interstate or foreign
commerce" by its carrying of, or providing the motive power for
the carrying of, a bona fide payload in interstate or foreign
commerce, or by being dispatched to a specific location at which
it will be loaded upon arrival with, or will be used as motive
power for the carrying of, a payload in interstate or foreign
commerce. For purposes of this subsection, "bona fide payload"
means a cargo of persons or property transported by a contract or

SENATE AMENDMENT " A " to COMMITTEE AMENDMENT "B" to H.P. 438,
L.D. 603

common carrier for compensation which exceeds the direct cost of carrying that cargo or pursuant to a legal obligation to provide service as a public utility or a cargo of property transported in the reasonable conduct of the purchaser's or lessee's own nontransportation business in interstate commerce. This subsection shall remain in effect until June 30, 1992;

Sec. 2. 36 MRSA §1760, sub-§48, as amended by PL 1987, c. 865, §1, is further amended to read:

48. Scheduled airlines. The sale or lease of an aircraft, or replacement or repair parts of an aircraft, used by a scheduled airline, based in this State, and which is regularly used in the performance of service under the regulations of the Civil Aeronautics Board, Part 298 or under the United States Code, Title 49, Section 1371. This subsection shall take effect retroactively beginning on January 1, 1984, and shall remain in effect until ~~Oetober-1,-1989~~ June 30, 1992.

A. In order to be eligible for the exemption authorized by this subsection, the applicant must demonstrate that the airline is:

(1) Incorporated in the State and has its corporate headquarters located in the State; and

(2) Providing intrastate and interstate flight service.

B. If an airline fails to comply with the provisions of subparagraph (1), a penalty shall be assessed on that airline at a rate equal to 10% of 1/12 of the total dollar amount of sales tax liability multiplied by a factor equal to the number of months, during the first year of the lease, for which the provisions of subparagraph (1) are not met. For purposes of this paragraph, the total sales tax liability shall be 5% of the fair market value of the aircraft acquired under the lease.

FISCAL NOTE

If enacted, this bill would result in a loss of revenue to the General Fund of \$2,477,745 in fiscal year 1989-90 and \$4,088,278 in fiscal year 1990-91. The corresponding loss of revenue to the municipal revenue sharing program would be \$133,155 in fiscal year 1989-90 and \$219,707 in fiscal year 1990-91.

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STATEMENT OF FACT

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This amendment adds scheduled airlines to the bill. The amendment extends the sunset provision on the sales tax exemption for purchased and leased aircraft to June 30, 1992 and establishes 2 conditions which an airline must meet in order to qualify for the exemption. The first condition is that the airline be incorporated in the State and have its corporate headquarters in Maine. The 2nd condition is that the airline provide both intrastate and interstate service.

The amendment also establishes a penalty provision for any airline which avails itself of the tax exemption but fails to satisfy the first condition for a period of one year from the inception of the lease. The penalty is equal to 10% of the sales tax which would have been assessed but for the exemption, less a pro rata portion of the tax for each month in that year for which the airline was in compliance with the condition.

(Senator BALDACCI)
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