

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 756

H.P. 558

House of Representatives, March 14, 1989

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative BELL of Caribou.

STATE OF MAINE

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

An Act to Collect Maine Sales Tax on Mail Order Items Entering the
State.



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

3 **Sec. 1. 36 MRSA §1752, sub-§11, as repealed and replaced by PL**
5 **1987, c. 497, §22, is amended to read:**

7 **11. Retail sale.** "Retail sale" means any sale of tangible
9 personal property, in the ordinary course of business, for
11 consumption or use, or for any purpose other than for resale,
13 except resale as a casual sale, in the form of tangible personal
15 property. "Retail sale" includes the sale of tangible personal
17 property purchased through the mail from another state for a
19 purpose other than for resale. "Retail sale" also means any sale
21 of a taxable service in the ordinary course of business for any
23 purpose other than for resale, except resale as a casual sale.
25 "Retail sale" includes conditional sales, installment lease sales
27 and any other transfer of tangible personal property when the
29 title is retained as security for the payment of the purchase
31 price and is intended to be transferred later. "Retail sale"
33 includes sale of products for internal human consumption to a
35 person for resale through coin-operated vending machines when
37 sold to a retailer whose gross receipts from the retail sale of
39 tangible personal property derived through sales from vending
41 machines are more than 50% of his that retailer's gross receipts,
43 which tax shall be paid by the retailer to the State. "Retail
45 sale" does not include any sale by a personal representative in
47 the settlement of an estate, unless the sale is made through a
49 retailer, or unless the sale is made in the continuation or
51 operation of a business; nor does the term include any other
casual sale. "Retail sale" does not include the sale of tangible
personal property which becomes an ingredient or component part
of, or which is consumed or destroyed or loses its identity
directly and primarily in the production of, tangible personal
property for later sale or lease, other than lease for use in
this State, but shall include fuel and electricity, but shall not
include electricity separately metered and consumed in any
electrolytic process for the manufacture of tangible personal
property for later sale, nor any fuel oil or coal, the
by-products from the burning of which become an ingredient or
component part of tangible personal property for later sale.
Tangible personal property is "consumed or destroyed" or "loses
its identity" in that production, if it has a normal physical
life expectancy of less than one year as a usable item in the use
to which it is applied. "Retail sale" does not include the sale,
to a person engaged in the business of renting automobiles, of
automobiles, or integral parts of automobiles or accessories to
automobiles, for rental or for use in an automobile rented, on a
short-term basis. "Retail sale" does not include the sale of
containers, boxes, crates, bags, cores, twines, tapes, bindings,
wrappings, labels and other packing, packaging and shipping
materials when sold to persons for use in packing, packaging or
shipping tangible personal property sold by them or upon which
they have performed the service of cleaning, pressing, dyeing,

1 washing, repairing or reconditioning in their regular course of
2 business and which are transferred to the possession of the
3 purchaser of such tangible personal property. "Retail sale" does
4 not include the provision of meals or lodging to employees at
5 their place of employment when the value of those meals or that
6 lodging is allowed as a credit toward the wages of those
7 employees.

9 **Sec. 2. 36 MRSA §1752, sub-§11**, as amended by PL 1985, c. 767,
10 §§2 and 4, is further amended to read:

11
12 **11. Retail sale or sale at retail.** "Retail sale" or "sale
13 at retail" means any sale of tangible personal property, in the
14 ordinary course of business, for consumption or use, or for any
15 purpose other than for resale, except resale as a casual sale, in
16 the form of tangible personal property, any rental of living
17 quarters in any hotel, rooming house, tourist or trailer camp,
18 any rental of automobiles on a short-term basis, other than
19 rental to a person engaged in the business of renting
20 automobiles, the sale of telephone or telegraph service and the
21 sale of extended cable television service. The term "retail sale"
22 or "sale at retail" includes the sale of tangible personal
23 property purchased through the mail from another state for a
24 purpose other than for resale. The term "retail sale" or "sale
25 at retail" includes conditional sales, installment lease sales,
26 and any other transfer of tangible personal property when the
27 title is retained as security for the payment of the purchase
28 price and is intended to be transferred later. The term "retail
29 sale" or "sale at retail" also means sale of products for
30 internal human consumption to a person for resale through
31 coin-operated vending machines when sold to a retailer whose
32 gross receipts from the retail sale of tangible personal property
33 derived through sales from vending machines are more than 50% of
34 his that retailer's gross receipts, which tax shall be paid by
35 the retailer to the State. The term "retail sale" or "sale at
36 retail" does not include any sale by an executor or administrator
37 in the settlement of an estate, unless such sale is made through
38 a retailer, or unless such sale is made in the continuation or
39 operation of a business; nor does the term include any other
40 isolated transaction in which any tangible personal property is
41 sold, transferred, offered for sale or delivered by the owner of
42 the property, such sale, transfer, offer for sale, or delivery
43 not being made in the ordinary course of repeated and successive
44 transactions of a like character by such owner, such transactions
45 being elsewhere sometimes referred to as "casual sales." "Casual
46 sales" includes transactions by a civic, religious or fraternal
47 organization, which is not a registered retailer, at bazaars,
48 fairs, rummage sales, picnics or similar events but not exceeding
49 8 days in a calendar year. The sale by a registered retailer of
50 tangible personal property, which that retailer has used in the
51 course of ~~his~~-~~or~~-~~its~~ business, is not a casual sale and is a
retail sale subject to taxation under this Part, if that property

1 is of a like character to that sold in the ordinary course of
2 repeated and successive transactions. "Casual sale" shall not
3 include any transaction in which tangible personal property is
4 sold, transferred or offered for sale by a representative for the
5 owner's account when such representative is a registered
6 retailer, in which event such registered retailer shall have the
7 same duties respecting such sale as if he the retailer had sold
8 on his the retailer's own account. "Retail sale" and "sale at
9 retail" do not include the sale of tangible personal property
10 which becomes an ingredient or component part of, or which is
11 consumed or destroyed or loses its identity directly and
12 primarily in the production of, tangible personal property for
13 later sale or lease, other than lease for use in this State, but
14 shall include fuel and electricity. "Retail sale" and "sale at
15 retail" do not include the sale, to a person engaged in the
16 business of renting automobiles, of automobiles, or integral
17 parts of automobiles or accessories to automobiles, for rental or
18 for use in an automobile rented, on a short-term basis. It shall
19 be considered that tangible personal property is "consumed or
20 destroyed" or "loses its identity" in such manufacture, if it has
21 a normal physical life expectancy of less than one year as a
22 usable item in the use to which it is applied. "Retail sale" or
23 "sale at retail" do not include the sale of containers, boxes,
24 crates, bags, cores, twines, tapes, bindings, wrappings, labels
25 and other packing, packaging and shipping materials when sold to
26 persons for use in packing, packaging or shipping tangible
27 personal property sold by them or upon which they have performed
28 the service of cleaning, pressing, dyeing, washing, repairing or
29 reconditioning in their regular course of business and which are
30 transferred to the possession of the purchaser of such tangible
31 personal property.

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STATEMENT OF FACT

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This bill enables the State to collect sales tax on tangible personal property purchased through the mail from another state.