

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 975, L.D. 1353, Bill, "An Act Concerning the Taxation of Entertainment Rentals, Services and Equipment"

Amend the bill by striking out all of the title and inserting in its place the following:

'An Act Relating to Sales Tax Exemptions and Revenues'

Further amend the bill by inserting after the title and before the enacting clause the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is necessary for certain organizations to begin using their sales tax exemptions before the expiration of the 90-day period in order to receive the full benefits of the exemptions; and

Whereas, granting sales tax exemptions should occur on a full fiscal year basis whenever possible in order to ensure consistent tax policy and administrative procedures; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

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'Sec. 1. 36 MRSA §1752, sub-§11, as repealed and replaced by PL 1987, c. 497, §22, is amended to read:

1
3 11. Retail sale. "Retail sale" means any sale of tangible
5 personal property, in the ordinary course of business, for
7 consumption or use, or for any purpose other than for resale,
9 except resale as a casual sale, in the form of tangible personal
11 property. "Retail sale" also means any sale of a taxable service
13 in the ordinary course of business for any purpose other than for
15 resale, except resale as a casual sale. "Retail sale" includes
17 conditional sales, installment lease sales and any other transfer
19 of tangible personal property when the title is retained as
21 security for the payment of the purchase price and is intended to
23 be transferred later. "Retail sale" includes sale of products
25 for internal human consumption to a person for resale through
27 coin-operated vending machines when sold to a retailer whose
29 gross receipts from the retail sale of tangible personal property
31 derived through sales from vending machines are more than 50% of
33 his the retailer's gross receipts, which tax shall be paid by the
35 retailer to the State. "Retail sale" does not include any sale
37 by a personal representative in the settlement of an estate,
39 unless the sale is made through a retailer, or unless the sale is
41 made in the continuation or operation of a business; nor does the
43 term include any other casual sale. "Retail sale" does not
45 include the sale of tangible personal property which becomes an
47 ingredient or component part of, or which is consumed or
49 destroyed or loses its identity directly and primarily in the
51 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, washing, repairing or
reconditioning in their regular course of business and which are
transferred to the possession of the purchaser of such tangible
personal property. "Retail sale" does not include the provision
of meals or lodging to employees at their place of employment
when the value of those meals or that lodging is allowed as a
credit toward the wages of those employees. "Retail sale" does

1 not include the sale of video tapes and video equipment to a
2 person engaged in the business of renting video tapes and video
3 equipment.

5 Sec. 2. 36 MRSA §1752, sub-§17-A, ¶¶E and F, as enacted by PL
1987, c. 497, §25, are amended to read:

7 E. Fabrication services; and

9 F. Custom computer programming, including, but not limited
11 to, modification of a standard program; and

13 Sec. 3. 36 MRSA §1752, sub-§17-A, ¶G is enacted to read:

15 G. Rental of video tapes and video equipment.

17 Sec. 4. 36 MRSA §1752, sub-§23 is enacted to read:

19 23. Video tapes and video equipment. "Video tapes" means
20 prerecorded magnetic tapes used for noncommercial playback of
21 images and sound on video equipment. "Video equipment" means
22 equipment used to play back video tapes and equipment used for
23 recording images and sound for subsequent noncommercial playback.

25 Sec. 5. 36 MRSA §1760, sub-§23-A, as amended by PL 1985, c.
26 691, §12, is further amended to read:

27 23-A. Truck bodies and trailers. Truck bodies,
28 semi-trailers, and trailers, manufactured in Maine, except camper
29 bodies and trailers, purchased by a nonresident who intends to
30 remove them immediately from the State upon delivery by the
31 seller. If the truck body, semi-trailer or trailer is returned to
32 Maine for an otherwise taxable use in Maine within 12 months of
33 the date of purchase, the purchaser shall be liable for use tax,
34 based on the original purchase price; and

37 Sec. 6. 36 MRSA §1760, sub-§23-B is enacted to read:

39 23-B. Semitrailers. Semitrailers purchased by a
40 nonresident and intended to be driven or transported outside the
41 State immediately upon delivery by the seller. If the
42 semitrailer is registered for use in Maine within 12 months of
43 the date of purchase, the person seeking registration shall be
44 liable for use tax on the basis of the original purchase price;

45 Sec. 7. 36 MRSA §1760, sub-§56, as repealed and replaced by PL
46 1987, c. 769, Pt. A, §153, is amended to read:

47 56. Nonprofit youth organizations. Sales to nonprofit
48 youth organizations whose primary purpose is to provide athletic
49 instruction in a nonresidential setting, or to councils and
50

1 local units of incorporated nonprofit national scouting
2 organizations;

3

4 **Sec. 8. 36 MRSA §1760, sub-§67 to 71 are enacted to read:**

5

6 67. Nonprofit home construction organizations. Sales to
7 local branches of incorporated nonprofit organizations whose
8 purpose is to construct low-cost housing for low-income people;

9

10 68. Maine Science and Technology Commission. Sales to
11 institutions incorporated as nonprofit organizations which
12 conduct scientific and technological research solely for the
13 Maine Science and Technology Commission and receive funding
14 pursuant to Title 5, chapter 385;

15

16 69. Vietnam veteran registries. Sales to incorporated,
17 nonprofit organizations whose sole purpose is to create, maintain
18 and update a registry of Vietnam veterans;

19

20 70. Organizations providing certain services for
21 hearing-impaired persons. Sales to incorporated nonprofit
22 organizations whose primary purposes are to promote public
23 understanding of hearing impairment and to assist
24 hearing-impaired persons through the dissemination of information
25 about hearing impairment to the general public and referral to
26 and coordination of community resources available to
27 hearing-impaired persons; and

28

29 71. State-chartered credit unions. Sales to credit unions
30 that are organized under the laws of this State. This subsection
31 shall remain in effect only for the time that federally chartered
32 credit unions are, by reason of federal law, exempt from payment
33 of state sales tax.

34

35 **Sec. 9. 36 MRSA §1765, sub-§7, as enacted by PL 1987, c. 402,**
36 **Pt. A, §180, is amended to read:**

37

38 7. Special mobile equipment. Special mobile equipment to
39 ~~the extent of 20% of the trade-in allowance for the property~~
40 ~~taken-in-trade;~~

41

42 **Sec. 10. 36 MRSA §1811, first ¶, as repealed and replaced by PL**
43 **1987, c. 497, §40, is amended to read:**

44

45 A tax is imposed at the rate of 5% on the value of all
46 tangible personal property, on telephone and telegraph service,
47 on extended cable television service, on fabrication services and
48 on custom computer programming sold at retail in this State and
49 on rental of video tapes and video equipment, and at the rate of
50 7% on the value of all other taxable services sold at retail in
51 this State. Value shall be measured by the sale price, except as
otherwise provided.

1
3 **Sec. 11. 36 MRSA §2013, sub-§1, ¶A**, as repealed and replaced by
PL 1981, c. 680, is amended to read:

5 A. "Agricultural production" means commercial production of
7 crops for human and animal consumption, including the
8 commercial production of sod, the commercial production of
9 seed to be used primarily to raise crops for nourishment of
humans or animals and production of livestock.

11 **Sec. 12. 36 MRSA §2013, sub-§1, ¶B**, as enacted by PL 1977, c.
12 686, §5, is amended to read:

13 B. "Commercial fishing" means attempting to catch or
14 cultivate fish or any other marine animals or organisms with
15 the intent of disposing of them for profit or trade in
16 commercial channels and does not include subsistence fishing
17 for personal use, sport fishing or charter boat fishing
18 where the vessel is used for carrying sport fishermen to
19 available fishing grounds.

21 **Sec. 13. 36 MRSA §2013, sub-§1, ¶C**, as repealed and replaced by
22 PL 1985, c. 691, §§25 and 48, and c. 737, Pt. A, §98, is amended
23 to read:

24 C. "Depreciable machinery and equipment" means that part of
25 the following machinery and equipment for which depreciation
26 is allowable under the United States Internal Revenue Code
27 and repair parts for that machinery and equipment:

28 (1) New or used machinery and equipment for use
29 directly and primarily in commercial agricultural
30 production, including self-propelled vehicles, but
31 excluding motor vehicles as defined in section 1752,
32 subsection 7, attachments and equipment for the
33 production of field and orchard crops; new or used
34 machinery and equipment used in production of milk and
35 in animal husbandry and production of livestock,
36 including poultry; or

37 (2) New or used watercraft used directly and primarily
38 for commercial fishing; and nets, traps, cables, tackle
39 and related equipment necessary to the operation of a
40 commercial fishing venture, but excluding motor
41 vehicles as defined in section 1752, subsection 7.

42 **Sec. 14. Effective date.** Section 10 shall become effective on
43 August 1, 1989.

44 **Emergency clause.** In view of the emergency cited in the
45 preamble, this Act shall take effect on July 1, 1989, except as
46 otherwise indicated.

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FISCAL NOTE

If enacted, this legislation would result in a net increase of revenue to the General Fund of \$2,104,054 in fiscal year 1989-90 and \$2,435,809 in fiscal year 1990-91. The corresponding net increase to the municipal revenue sharing program would be \$107,307 in fiscal year 1989-90 and \$124,226 in fiscal year 1990-91.'

STATEMENT OF FACT

Sections 1 and 10 add the rental of video tapes and video equipment as a taxable service for sales tax purposes.

Sections 5 and 6 amend the sales tax exemption for semitrailers purchased by out-of-state residents.

Section 7 exempts scouting organizations in this State from paying a sales tax on goods and services they purchase in the State.

Section 8 provides a sales tax exemption for purchases by volunteer organizations, such as Habitat for Humanity, Incorporated, that build homes for needy people; provides a sales tax exemption for the Maine Research and Productivity Council at the University of Maine in Presque Isle and any other Centers for Innovation created by the Maine Science and Technology Commission; provides a sales tax exemption to incorporated Vietnam veteran registry-keeping organizations; provides a sales tax exemption to those nonprofit corporations whose primary purposes are to assist and promote public understanding of hearing-impaired persons through the dissemination of information and referral to and coordination of community resources; and extends the same sales tax exemption to state-chartered credit unions that is currently received by federal chartered credit unions in order to effect parity with these organizations.

Section 11 expands the definition of "agricultural production" to include the commercial production of sod, thereby extending the sales tax credit on certain depreciable machinery and equipment used in that production.

Section 12 incorporates the definition of "aquaculture" as found in the Maine Revised Statutes, Title 12, section 6001, into the definition of commercial fishing for tax purposes and clarifies the treatment of aquaculture under the Maine sales tax laws, and extends the refund of sales tax to include parts of depreciable agricultural machinery and equipment.

COMMITTEE AMENDMENT "A" to H.P. 975, L.D. 1353

1 Section 13 provides for an increased sales tax credit on
3 construction equipment traded in for new and used construction
equipment.

5 Section 14 adds an effective date for section 10 of the bill
of August 1, 1989, as the rest of the amendment would take effect
7 as an emergency measure on July 1, 1989.

Reported by the Committee on Taxation
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6/8/89 (Filing No. H-446)