

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1644

H.P. 1119

House of Representatives, April 24, 1991

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 CASHMAN of Old Town.

Cosponsored by Senator CLARK of Cumberland and Representative NADEAU of Saco.

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STATE OF MAINE

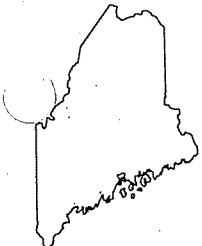
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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An Act to Amend the Maine Sales and Use Tax Law.

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

2  
3 Sec. 1. 36 MRSA §1752, sub-§11, as repealed and replaced by PL  
4 1989, c. 871, §5, is amended to read:

6 11. Retail sale. "Retail sale" means any sale of tangible  
7 personal property in the ordinary course of business for any  
8 purpose other than for resale, except resale as a casual sale, in  
9 the form of tangible personal property. "Retail sale" also means  
10 any sale of a taxable service in the ordinary course of business  
11 for any purpose other than for resale, except resale as a casual  
12 sale. For purposes of this subsection, "resale" means the  
13 purchase of tangible personal property for the purpose of renting  
14 or leasing that property to others by persons engaged wholly or  
15 in part in the trade or business of renting or leasing tangible  
16 personal property.

18 A. "Retail sale" includes:

20 (1) Conditional sales, installment lease sales and any  
21 other transfer of tangible personal property when the  
22 title is retained as security for the payment of the  
23 purchase price and is intended to be transferred later;  
24 and

26 (2) Sale of products for internal human consumption to  
27 a person for resale through coin-operated vending  
28 machines when sold to a retailer whose gross receipts  
29 from the retail sale of tangible personal property  
30 derived through sales from vending machines are more  
31 than 50% of the retailer's gross receipts. The tax  
32 must be paid by the retailer to the State.

34 B. "Retail sale" does not include:

36 (1) Any casual sale; or

38 (2) Any sale by a personal representative in the  
39 settlement of an estate, unless the sale is made  
40 through a retailer, or unless the sale is made in the  
41 continuation or operation of a business; or

42 ~~(3) The sale to a person engaged in the business of~~  
43 ~~renting automobiles, of automobiles, integral parts of~~  
44 ~~automobiles or accessories to automobiles, for rental~~  
45 ~~or for use in an automobile rented, on a short-term~~  
46 ~~basis; or~~

48 ~~(4) The sale to a person engaged in the business of~~  
49 ~~renting video tapes and video equipment, of video tapes~~  
50 ~~or video equipment for rental.~~

2            **Sec. 2. 36 MRSA §1811, first ¶**, as repealed and replaced by PL  
3 1989, c. 871, §16, is repealed and the following enacted in its  
4 place:

5            A tax is imposed at the rate of 5% on the value of all  
6 tangible personal property, on telephone and telegraph service,  
7 on extended cable television service, on fabrication services, on  
8 the rental of tangible personal property, except the rental for a  
9 period of less than one year of an automobile, and on custom  
10 computer programming sold at retail in this State; at the rate of  
11 7% on the value of all other taxable services sold at retail in  
12 this State; and at a rate of 10% on the value of liquor sold in  
13 licensed establishments as defined in Title 28-A, section 2 in  
14 accordance with Title 28-A, chapter 43. Value must be measured  
15 by the sale price, except as otherwise provided. Notwithstanding  
16 any other provision of this chapter, the tax on the rental of  
17 tangible personal property, except the rental of an automobile  
18 for the period of less than one year, must be paid in full at the  
19 inception of the lease or rental agreement.

20  
21  
22                                            **STATEMENT OF FACT**

23            The purpose of this bill is to provide an equitable sales  
24 and use tax structure for the lease of tangible personal  
25 property. The bill replaces the current system for the sales and  
26 use tax of leased tangible personal property with a system that  
27 assesses taxes on the lease price. Under this bill, the tax is  
28 levied on the amounts that represent the actual consumer spending.  
29  
30