

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1992

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Legislative Document

No. 2314

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H.P. 1651

House of Representatives, February 11, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.  
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 DiPIETRO of South Portland.  
Cosponsored by Representative PENDLETON of Scarborough.

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STATE OF MAINE

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

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**An Act to Impose a Sales Tax on All Items Sold at Flea Markets Except  
Those Sold by Nonprofit Organizations.**

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

2  
4       **Sec. 1. 36 MRSA §1752, sub-§1-D**, as amended by PL 1989, c. 847, §1, is further amended to read:

6       **1-D. Casual sale.** "Casual sale" means an isolated  
8 transaction in which tangible personal property or a taxable  
10 service is sold other than in the ordinary course of repeated and  
12 successive transactions of like character by the person making  
14 the sale. "Casual sales" include transactions by a civic,  
16 religious or fraternal organization ~~which~~ that is not a  
18 registered retailer at a bazaar, fair, rummage sale, picnic or  
20 similar event. "Casual sales" include sales made at a flea  
22 market by a person who is registered as nonprofit pursuant to  
24 section 1754-B. The sale by a registered retailer of tangible  
26 personal property ~~which~~ that retailer has used in the course of  
the retailer's business is not a "casual sale" if that property  
is of like character to that sold in the ordinary course of  
repeated and successive transactions. "Casual sale" does not  
include any transaction in which tangible personal property is  
sold by a representative for the owner's account when that  
representative is a registered retailer and the registered  
retailer ~~shall--have~~ has the same duties respecting any such  
transaction as if the representative had sold on the  
representative's own account.

28       **Sec. 2. 36 MRSA §1752, sub-§3-C** is enacted to read:

30       **3-C. Flea market.** "Flea market" means one location at  
32 which the owner of retail sales space rents or leases space to  
more than 4 persons for less than a 12-month period for the  
purpose of offering goods for sale.

34       **Sec. 3. 36 MRSA §§1754-A and 1754-B** are enacted to read:

36       **§1754-A. Registration of owners of space temporarily rented  
38 as retail space**

40       A person who owns property for rent or lease and has more  
than 4 persons renting or leasing space at one location for less  
than a 12-month period for the purpose of retail sales shall  
42 register with the State Tax Assessor. The form for application  
for registration and the registration certificates must be  
44 prescribed and furnished at no charge by the State Tax Assessor.  
For each location where more than 4 persons rent or lease space  
46 for less than 12 months from the same person, the State Tax  
Assessor shall issue a registration certificate, which must be  
48 conspicuously displayed at that location. The owner shall  
provide to the State Tax Assessor by the 15th of each month the  
50 names, addresses and tax registration certificate numbers and  
52 classes of those persons who have rented space during the  
previous month. Informational returns must be prescribed and

2 furnished free by the State Tax Assessor. Returns required under  
3 this section must be treated as returns filed under this Title  
4 for purposes of section 187.

6 §1754-B. Registration of temporary renters of space at flea  
7 market

8 A person who rents space to engage in retail sales as part  
9 of a flea market shall register with the State Tax Assessor under  
10 terms prescribed by the State Tax Assessor. The State Tax  
11 Assessor shall prescribe and furnish at no charge the form for  
12 application for registration and the registration certificates.  
13 The State Tax Assessor shall issue a registration certificate  
14 that indicates whether the person is registered as nonprofit or  
15 for profit. This certificate must be conspicuously displayed at  
16 the rented space.

18 **Sec. 3. 36 MRSA §2113**, as amended by PL 1977, c. 696, §277,  
19 is further amended by adding at the end a new paragraph to read:

20 For purposes of this section, a person required to register  
21 under section 1754-A or 1754-B who engages in any business for  
22 which registration is required under section 1754-A or 1754-B  
23 without being the holder of a currently valid registration  
24 certificate commits a separate offense for each calendar month or  
25 part of a month during which that person engages in that business.

28 **STATEMENT OF FACT**

30 This bill facilitates the collection of sales tax on items  
31 sold at flea markets by people other than nonprofit organizations.  
32