

MAINE STATE LEGISLATURE

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L.D. 702

(Filing No. H-202)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 518, L.D. 702, Bill, "An Act to Clarify That the Existing Sales Tax Exemption for the Aquaculture Industry Extends to Seaweed and Other Marine Plant Growers"

Amend the bill by striking out the title and substituting the following:

'An Act to Clarify the Existing Sales Tax Exemption for Aquacultural Production'

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, certain new businesses are attempting to start operations in the State but are hampered by confusion and misunderstanding of the law and rules regarding aquacultural production; and

Whereas, state policy is to encourage and assist new businesses whenever possible; and

Whereas, clarifying the sales tax laws would provide immediate assistance to these new companies; 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,'

COMMITTEE AMENDMENT

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 §2013, as amended by PL 1989, c. 847, §3, is further amended to read:

§2013. Refund of sales tax on depreciable machinery and equipment purchases

1. Definitions. As used in this section, unless the context otherwise indicates, the following words shall have the following meanings.

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

A-1. "Commercial aquacultural production" means the commercial production of cultured fish, shellfish, seaweed or other marine plants for human and animal consumption, including:

(1) All cultivating activities occurring at hatcheries or nurseries, from the egg, larval or spore stages to the transfer of the product to a growing site; and

(2) All cultivating activities occurring on water, from the receipt of fish, shellfish, seaweed or other marine plants from onshore facilities to the delivery of harvested products to onshore facilities for processing.

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

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

(1) New or used machinery and equipment for use directly and primarily in commercial agricultural

production, including self-propelled vehicles, but excluding motor vehicles as defined in section 1752, subsection 7, attachments and equipment for the production of field and orchard crops; and new or used machinery and equipment used in production of milk and in animal husbandry and production of livestock, including poultry; ~~or~~

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

(3) New or used watercraft, machinery or equipment used directly and primarily for aquacultural production, including, but not limited to: nets; ropes; cables; anchors and anchor weights; shackles and other hardware; buoys; fish tanks; fish totes; oxygen tanks; pumping systems; generators; water-heating systems; boilers and related pumping systems; diving equipment; feeders and related equipment; power-generating equipment; tank water-level sensors; aboveground piping; water-oxygenating systems; fish-grading equipment; safety equipment; and sea cage systems, including walkways and frames, lights, netting, buoys, shackles, ropes, cables, anchors and anchor weights; but excluding motor vehicles as defined in section 1752, subsection 7.

2. **Credit authorized.** Any person, association of persons, firm or corporation who purchases or leases depreciable machinery or equipment for use in commercial agricultural production ~~or~~ commercial fishing shall or commercial aquacultural production must be refunded the amount of sales tax paid by him--by presenting to the State Tax Assessor evidence that the machinery or equipment complies with the definitions of subsection 1.

Evidence required by the State Tax Assessor may include a copy or copies of that portion of the purchaser's or lessee's most recent filing under the United States Internal Revenue Code which that indicates that the purchaser or lessee is engaged in commercial agricultural production ~~or~~ commercial fishing or commercial aquacultural production and that the purchased machinery or equipment is depreciable for those purposes or would be depreciable for those purposes if owned by the lessee.

In the event that any piece of machinery or equipment shall-be is only partially depreciable under the United States Internal Revenue Code, any reimbursement of the sales tax shall must be prorated accordingly.

Application for refunds shall must be filed with the State Tax Assessor within 36 months of the date of purchase or execution of the lease.

3. Exemption for large purchase after certification. Sales tax is not paid on the purchase of a single item of machinery or equipment if the purchaser has the certification of the State Tax Assessor that the purchaser is engaged in commercial agricultural production or commercial fishing, or commercial aquacultural production and that the purchaser may purchase depreciable machinery and equipment without paying Maine sales tax. The seller is required to obtain a copy of the certificate together with an affidavit as prescribed by the State Tax Assessor, to be maintained in the seller's records, attesting to the qualification of the purchase for exemption pursuant to this section. In order to qualify for this exemption, the depreciable machinery or equipment must be used directly in commercial agricultural production or commercial fishing or commercial aquacultural production.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.'

STATEMENT OF FACT

This amendment clarifies the existing sales tax exemption for depreciable machinery and equipment used in aquacultural production by creating new sections in law that define aquacultural production and depreciable machinery and equipment used in aquacultural production.

This clarification does not expand the existing exemption but is intended to give guidance to the aquaculture industry and the Bureau of Taxation so that decisions concerning eligible depreciable machinery and equipment can be consistently made.

The amendment also adds an emergency preamble and an emergency clause so that the guidelines can be provided as soon as possible.

Reported by the Committee on Taxation
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4/27/93 (Filing No. H-202)