

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 1388

H.P. 990

House of Representatives, February 18, 1999

**An Act to Amend the Sales and Use Tax Law Regarding the Food Service and Lodging Industries.**

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Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative COWGER of Hallowell.  
Cosponsored by Senator KILKELLY of Lincoln and  
Representatives: CLARK of Millinocket, COLLINS of Wells, FISHER of Brewer, FULLER  
of Manchester, McNEIL of Rockland, PERRY of Bangor, POWERS of Rockport, SHOREY  
of Calais.

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

2  
3       **Sec. 1. 36 MRSA §1752, sub-§9-B**, as amended by PL 1997, c.  
4 557, Pt. D, §1, as affected by §4 and as affected by Pt. G, §1,  
5 is further amended to read:

6  
7       **9-B. Production.** "Production" means an operation or  
8 integrated series of operations engaged in as a business or  
9 segment of a business that transforms or converts personal  
10 property by physical, chemical or other means into a different  
11 form, composition or character from that in which it originally  
12 existed.

13  
14 "Production" includes manufacturing, processing, assembling and  
15 fabricating operations that meet the definitional requisites,  
16 including biological processes that are part of an integrated  
17 process of manufacturing organisms or microorganic materials  
18 through the application of biotechnology. "Production" also  
19 includes cooking or preparing drinks, meals, food or food  
20 products by a person in the food service industry.

21  
22 "Production" does not include biological processes except as  
23 otherwise provided by this subsection, wood harvesting  
24 operations, or the severance of sand, gravel, oil, gas or other  
25 natural resources produced or severed from the soil or water, ~~or~~  
26 ~~activities such as cooking or preparing drinks, meals, food or~~  
27 ~~feed products by a retailer for retail sale.~~ The foregoing are  
28 examples of activities that are not included within the term  
29 "production."

30  
31       **Sec. 2. 36 MRSA §1760, sub-§31**, as amended by PL 1989, c. 501,  
32 Pt. V, §§4 and 5, is further amended to read:

33  
34       **31. Machinery and equipment.** Sales of machinery and  
35 equipment for use by the purchaser directly and primarily in  
36 either the production of tangible personal property, which  
37 property is intended to be sold or leased ultimately for final  
38 use or consumption, ~~or~~; the production of tangible personal  
39 property pursuant to a contract with the United States Government  
40 or any agency thereof of the United States Government; or for use  
41 by the purchaser in the lodging industry.

42  
43       **Sec. 3. 36 MRSA §1760, sub-§74**, as enacted by PL 1989, c. 871,  
44 §15, is amended to read:

45  
46       **74. Property used in production.** Sales of tangible  
47 personal property, other than fuel or electricity, that becomes  
48 an ingredient or component part of, or that is consumed or  
49 destroyed or loses its identity directly and primarily in either  
50 the production of tangible personal property for later sale or

2 lease, other than lease for use in this State, or the production  
of tangible personal property pursuant to a contract with the  
4 United States Government or any agency of the United States  
Government. Tangible personal property is "consumed or  
6 destroyed" or "loses its identity" in that production if it has a  
normal physical life expectancy of less than one year as a usable  
8 item in the use to which it is applied. Sales of tangible  
personal property used in cooking or preparing drinks, meals,  
10 food or food products by a person in the food service industry  
are exempt under this subsection.

## 12 SUMMARY

14 This bill exempts sales of tangible personal property used  
16 in cooking or preparing drinks, meals, food or food products by a  
person in the food service industry from the sales tax. It also  
18 exempts sales of machinery and equipment used by a person in the  
food service or lodging industry from the sales tax. These  
20 exemptions parallel existing exemptions for property used in  
production and machinery and equipment, respectively.  
22