

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1056

S.P. 309

In Senate, February 22, 2001

An Act to Enforce the Taxation of Building Materials and Modular Homes.

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by President Pro Tem BENNETT of Oxford.
Cosponsored by Senator KNEELAND of Aroostook, Representatives: BUMPS of China,
CLARK of Millinocket, DUGAY of Cherryfield, FISHER of Brewer, GREEN of Monmouth,
WINSOR of Norway.

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

4 **Sec. 1. 12 MRSA §685-B, sub-§8**, as amended by PL 1973, c. 569, §11, is further amended to read:

6 **8. Certificates of compliance.** It ~~shall-be~~ is unlawful to
8 use or occupy or permit the use or occupancy of any land, or
structure, or part thereof, created, erected, changed, converted,
10 or wholly or partly altered or enlarged in its use or structural
form, requiring subsequent review and approval pursuant to this
12 subchapter, until a certificate of compliance has been issued
~~therefor~~ by the commission stating that the requirements and
conditions of approval have been met.

14 A certificate of compliance may contain such terms and conditions
16 as will protect the health, safety and general welfare of the
occupants, users and the public.

18 The commission may establish standards within which authority
20 ~~shall-be~~ is delegated to its staff, to issue or deny certificates
of compliance. Any person aggrieved by a decision of the staff
22 ~~shall-have~~ has the right to a review of ~~such~~ the decision by the
commission members within 30 days of ~~such~~ the decision.

24 The commission may not issue a certificate of compliance until
26 proof that all taxes due under Title 36, Part 3 have been paid
for materials used in the activity requiring the certificate.

28 **Sec. 2. 23 MRSA §1154** is enacted to read:

30 **§1154. Border crossings**

32 The department shall post a sign within 1/2 mile of every
34 Canadian border crossing informing travelers coming into the
State of sales and use tax requirements under Title 36, Part 3.
36 Rules adopted to implement this paragraph are routine technical
rules pursuant to Title 5, chapter 375, subchapter II-A.

38 **Sec. 3. 29-A MRSA §2382, sub-§12** is enacted to read:

40 **12. Forward permit.** The Secretary of State shall forward a
42 copy of a permit granted under this section to the Department of
Administrative and Financial Services, Bureau of Revenue Services
44 or its successor state agency.

46 **Sec. 4. 30-A MRSA §4105** is enacted to read:

48 **§4105. Occupancy permits**

2 A municipality may not issue an occupancy permit for an
3 activity requiring a permit under this subchapter until proof
4 that taxes due under Title 36, Part 3 have been paid for
5 materials used in the activity requiring the occupancy permit.
6 For purposes of this section, "occupancy permit" means a final
7 inspection or approval or certification by a municipality that
8 all work required pursuant to an issued permit has been completed
9 and that the building or structure is ready for occupancy.

10 **Sec. 5. Bureau of Revenue Services duties and responsibilities.** The
11 Department of Administrative and Financial Services, Bureau of
12 Revenue Services, referred to in this section as the "bureau,"
13 shall enforce the sales and use tax under the Maine Revised
14 Statutes, Title 36, Part 3, referred to in this section as the
15 "tax," on international sellers in the following ways.

16 **1. Contact officials and organizations.** The bureau shall
17 contact:

18
19
20 A. The appropriate Canadian officials and trade
21 organizations, focusing on retailers, modular home and
22 engineered frame manufacturers and building materials and
23 lumber trade organizations, to inform them of the
24 requirements and penalties of the tax and the State's
25 intention to vigorously enforce the tax against retailers
26 entering the State from Canada and to request that this
27 information be passed to Canadian companies who do business
28 in the State. The bureau shall offer to collaborate with
29 the officials and trade organizations in informing Canadian
30 companies;

31
32 B. Canadian companies known to do business in the State,
33 focusing on retailers, modular home and engineered frame
34 manufacturers and building materials and lumber companies,
35 to inform the businesses of the requirements of the tax and
36 the State's intention to vigorously enforce the tax and to
37 encourage registration and voluntary compliance with the
38 requirements of the tax. This contact may be made by
39 letter; and

40
41
42 C. Accounting firms in Canada and New England that audit
43 Canadian companies, focusing on retailers, modular home and
44 engineered frame manufacturers and building materials and
45 lumber companies, to inform the firms of the requirements of
46 the tax and the State's intention to vigorously enforce the
47 tax and to request that the firms encourage their clients to
48 register and voluntarily comply with the requirements of the
49 tax. As much as possible, a contact made pursuant to this
50 paragraph should be in person by an auditor who works for
the bureau.

2 **2. Audits.** The bureau shall audit Canadian companies,
4 focusing on retailers, modular home and engineered frame
6 manufacturers and building materials and lumber companies known
8 to do business in the State to gauge compliance with the tax, to
10 encourage the companies to register for and comply with the tax
12 and to gain names and addresses of customers who are state
residents who may have purchased goods or materials from the
companies without paying the tax. The bureau shall also audit
any list of highway fuel tax registrants for Canadian companies
who are not registered under Title 36, Part 3 and may be entering
the State with retail goods.

14 **3. Spot checks.** The bureau shall monitor border crossings
16 and stop motor vehicles suspected of belonging to Canadian
18 companies, focusing on potential retailers, modular home and
20 engineered frame manufacturers and building materials and lumber
22 companies who may not be registered under Title 36, Part 3 and
24 may be entering the State with retail goods. The bureau shall
also obtain United States Customs Service quarterly reports to
help identify Canadian companies, focusing on retailers, modular
home and engineered frame manufacturers and building materials
and lumber companies who may not be registered under Title 36,
Part 3 and may be entering the State with retail goods.

26

SUMMARY

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30 This bill strengthens enforcement of the sales and use tax
32 against Canadian companies doing business in the State by
directing:

34 1. Municipalities and the Maine Land Use Regulation
36 Commission to require proof of payment of the sales and use tax
before issuing a certificate of occupancy or compliance;

38 2. The Department of Transportation to post signs at
40 Canadian border crossings informing travelers entering the State
of the sales and use tax requirements;

42 3. The Secretary of State to forward a copy of every
44 overland movement permit issued to the Department Administrative
and Financial Services, Bureau of Revenue Services; and

46 4. The Bureau of Revenue Services to contact Canadian
48 officials, trade organizations and accounting firms and companies
50 informing them of the requirement of the sales and use tax and
encouraging registration and voluntary compliance, to audit
Canadian companies suspected of violating the sales and use tax
requirements and to conduct spot checks at the border for

2 Canadian companies suspected of violating the sales and use tax requirements.