MAINE STATE LEGISLATURE

The following document is provided by the

LAW AND LEGISLATIVE DIGITAL LIBRARY

at the Maine State Law and Legislative Reference Library

http://legislature.maine.gov/lawlib



Reproduced from scanned originals with text recognition applied (searchable text may contain some errors and/or omissions)



120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1818

H.P. 1361

House of Representatives, May 31, 2001

Millient M. Mac Failand

An Act to Ensure Retailer Compliance with the Tax on Tobacco Products.

Reported by Representative GREEN for the Joint Standing Committee on Taxation pursuant to Joint Order 2001, H.P. 1344.

MILLICENT M. MacFARLAND, Clerk

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

2

10

12

14

16

18

20

22

24

26

28

30

32

Sec. 1. 36 MRSA §4402, as amended by PL 1997, c. 526, §14, is further amended to read:

§4402. Licenses

Every person engaging in the business of selling tobacco products as a distributor, or as a retailer that brings into this State or causes to be brought into this State tobacco products upon which the tax imposed by this chapter has not been paid, shall secure obtain a license from the tax-assessor State Tax Assessor before engaging in that business. Every application shall must be made on a form prescribed by the tax assessor and shall must state the name and address of the applicant, the address of his the applicant's principal place of business, and such other information as the tax assessor may require for the proper administration of this chapter. application shall must be accompanied by a fee of \$25, except that there-shall be-ne a fee is not required for distributors or unclassified importers licensed under chapter 703. without outside the State who ships or transports tobacco products to retailers in this State shall make application as a distributor and be granted by the tax assessor a license subject to all the provisions of this chapter and agree, upon applying for a license, to submit his that person's books, accounts and records to examination by the Bureau-of-Revenue-Services bureau during reasonable business hours, and to accept service of process by mail when service is made in any proceeding involving enforcement of this chapter.

Each unclassified importer before importing, receiving or acquiring tobacco products from without <u>outside</u> the State shall seeure <u>obtain</u> a license from the tax--assesser <u>State Tax Assessor</u>. There shall-be <u>is</u> no fee for that license.

36

38

40

34

Each A license issued shall-empire pursuant to this section expires on July 31st of each year unless sooner revoked by the tam-assesser State Tax Assessor. The license shall must be prominently displayed on the premises covered by the license and ne-license may not be transferred to any other person.

42

44

46

The tax-assesser State Tax Assessor may revoke or suspend the license or licenses of any person for violation of this chapter applicable to the sale of tobacco products. No $\underline{\lambda}$ license may not be revoked, canceled or suspended until after notice and hearing by the tax assessor.

48

50

Sec. 2. 36 MRSA §4403, sub-§3, as enacted by PL 1985, c. 783, §16, is amended to read:

3. Imposition. The tax shall-be is imposed at the time the distributor, retailer or unclassified importer brings or causes to be brought into this State tobacco products that are for sale to consumers or to retailers or for use or at the time tobacco products are manufactured or fabricated in this State for sale in this State.

8

10

12

14

16

18

20

22

24

26

28

30

32

34

36

38

2

Sec. 3. 36 MRSA §4404, as amended by PL 1987, c. 497, §46, is further amended to read:

§4404. Returns; payment of tax and penalty

Every distributor, or retailer and unclassified importer subject to the licensing requirement of section 4402 shall on or before the last day of each month render submit, on ferms-te-be a form prescribed and furnished by the tax--assesser State Tax Assessor, a report together with payment of the tax due under this chapter to--the-tax--assessor stating the quantity and the wholesale sale price of all tobacco products held, purchased, manufactured, brought in or caused to be brought in from without outside the State or shipped or transported to retailers within the State during the preceding calendar month. Every such distributor er, retailer and unclassified importer shall keep a complete and accurate record at his its principal place of business to substantiate all receipts of tobacco products+-this record-shall-be-preserved-for-a-period-of-2-years-in-such-manner as-te-insure-premanency-and-accessibility-fer-inspection.

Such monthly reports shall must contain such further information as the tax-assessor-shall State Tax Assessor may prescribe and shall must show a credit for any tobacco products exempted as provided in section 4403. Records shall must be maintained to substantiate the exemption. Tobacco products previously taxed which that are returned to a manufacturer because the product has become unfit for use of, sale or consumption or-unsalable may be taken as a credit on a subsequent return upon receipt of the credit notice from the original supplier.

40

FISCAL NOTE

42

		2001-02	2002-03
44	REVENUES		
46			
	General Fund	\$55,251	\$84,244
48	Other Funds	92	204

The clarification that retailers that bring tobacco products into the State are obligated to obtain licenses and report and

pay the tax on those tobacco products will result in increases in General Fund revenue totalling \$55,251 in fiscal year 2001-02 and \$84,244 in fiscal year 2002-03.

The increased collections of the tobacco products tax will increase General Fund revenue by \$53,040 and \$79,950 in fiscal years 2001-02 and 2002-03, respectively. General Fund revenue from the issuance of new tobacco products licenses will increase by \$500 annually beginning in fiscal year 2001-02.

The bill will increase sales and use tax collections by \$1,803 in fiscal year 2001-02 and \$3,998 in fiscal year 2002-03. The increase of these tax collections will increase the amounts transferred to the Local Government Fund for state-municipal revenue sharing in those years by \$92 and \$204, respectively. The resulting net increase of General Fund revenue will be \$1,711 in fiscal year 2001-02 and \$3,794 in fiscal year 2002-03.

SUMMARY

This bill clarifies the obligation of retailers that bring tobacco products into the State on which a tax has not been paid to obtain a license and report and pay the tax on those tobacco products.