

MAINE STATE LEGISLATURE

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DATE: March 20, 2002 (Filing No. S- 481)

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STATE OF MAINE
SENATE
120TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 667, L.D. 1871, Bill, "An Act to Conform Maine Tax Law to the Federal Mobile Telecommunications Sourcing Act"

Amend the bill by inserting after the enacting clause the following:

'Sec. 1. 25 MRSA §2927, sub-§1-B, as amended by PL 2001, c. 439, Pt. EEEE, §6, is further amended to read:

1-B. Statewide E-9-1-1 surcharge. The activities authorized under this chapter are funded through a special statewide E-9-1-1 surcharge levied on each residential and business telephone exchange line, including private branch exchange lines and Centrex lines, cellular or wireless telecommunications service subscribers and semipublic coin and public access lines. The statewide E-9-1-1 surcharge may not be imposed on more than 25 lines or numbers per customer billing account. In the case of cellular or wireless telecommunications service subscribers, the place of residence of those subscribers must be determined according to the sourcing rules for mobile telecommunications services set forth in Title 36, section 1816. The statewide E-9-1-1 surcharge is 50¢ per month per line or number until 90 days after adjournment of the First Regular Session of the 121st Legislature, after which time the statewide E-9-1-1 surcharge is 32¢ per month per line or number. The statewide E-9-1-1 surcharge must be billed on a monthly basis by each local exchange telephone utility or cellular or wireless telecommunications service provider and be shown separately as a statewide E-9-1-1 surcharge on the customer's bill.'

2 Further amend the bill by inserting after section 3 the
following:

4 'Sec. 4. 36 MRSA §1752, sub-§8-B, as enacted by PL 1999, c.
6 488, §2, is amended to read:

8 8-B. Prepaid calling arrangement. "Prepaid calling
arrangement" means the right to purchase exclusively
10 telecommunications services, ~~which that~~ must be paid for in
advance, that enables the origination of calls using an access
12 number or authorization code or both, whether manually or
electronically dialed, if the remaining amount of units of
14 service that have been prepaid is known by the provider of the
prepaid service on a continuous basis. The sale or recharge of
16 the service is considered a sale within the State if the transfer
for consideration takes place at the vendor's place of business
18 in the State. If the sale or recharge of a prepaid calling
arrangement does not take place at the vendor's place of
20 business, the sale or recharge is deemed to take place at the
customer's shipping address, or if there is no item shipped, at
22 the customer's billing address or the location associated with
the customer's mobile telephone number. The sale of the service
24 is deemed to occur on the date of the transfer for consideration
of the service.'

26 Further amend the bill in section 6 in subsection 18-D in
28 paragraph A by striking out all of subparagraphs (1), (2) and (3)
and inserting in their place the following:

30 '(1) The provision of 2-way interactive communications
32 through the use of telecommunications equipment,
exclusive of mobile telecommunications services; or

34 (2) The installation, maintenance or repair of
36 telecommunications equipment; and

38 (3) Two-way interactive mobile telecommunications
services provided by a home service provider to a
40 customer whose place of primary use is within this
State, to the extent those services are associated with
42 transmissions that originate and terminate within this
State or within any other state. For purposes of this
44 paragraph, the term "state" includes the District of
Columbia and any territory or possession of the United
46 States.'

48 Further amend the bill in section 7 in that part designated
"§1816." in subsection 1 by striking out all of the first 6 lines

(page 3, lines 43 to 48 in L.D.) and inserting in their place the following:

'1. Sourcing rule; identifying place of primary use. Mobile telecommunications services provided to a customer whose place of primary use is located in this State, the charges for which are billed by or for the customer's home service provider, are deemed to be provided at the customer's place of primary use. A home service provider is responsible for obtaining and maintaining a record of a customer's place of primary use. Subject to subsection 2 and if the home service provider's reliance on the information provided by its customer is in good faith, the home service provider.'

Further amend the bill in section 7 in that part designated "~~§1816.~~" by striking out all of subsections 3 to 6 and inserting in their place the following:

'3. Hold harmless provision; use of electronic database or enhanced zip code. A home service provider is entitled to the hold harmless protections provided by the federal Mobile Telecommunications Sourcing Act, PL 106-252, Section 1, 114 Stat. 2, 2000.

4. Bundled services. Notwithstanding any other provision of this Part, otherwise nontaxable charges that are aggregated with and not separately stated from taxable mobile telecommunications charges are subject to taxation unless the home service provider can, to the satisfaction of the State Tax Assessor, reasonably identify such charges from books and records kept in the regular course of its business. A customer may not rely upon the nontaxability of bundled services unless the customer's home service provider separately states the otherwise nontaxable services or the home service provider elects, after receiving written notice from the customer in the form required by the provider, to provide verifiable data based upon the home service provider's books and records that are kept in the regular course of business and that reasonably identify the nontaxable charges.

5. Transitional provision. Subject to subsection 2, a home service provider may treat the address used by it for purposes of the tax imposed by this Part for any customer under a service contract or agreement in effect on July 28, 2002 as that customer's place of primary use for the remaining term of the service contract or agreement, excluding any extension or renewal period.'

Further amend the bill by striking out all of section 8 and inserting in its place the following:

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Sec. 8. Application date. This Act applies to customer bills issued by providers of mobile telecommunications services after August 1, 2002.'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

Further amend the bill by inserting at the end before the summary the following:

'FISCAL NOTE

Enactment of this bill will reduce General Fund revenue by a modest amount beginning in fiscal year 2002-03 from the tax loss on wireless calls made in the State by out-of-state residents or businesses. This revenue loss will be offset in the same time period by an increase in General Fund revenue by a modest amount from the tax gain on wireless calls made out of state by Maine residents or businesses.'

SUMMARY

This amendment makes technical corrections in order to ensure that the bill properly conforms the State's sales and use tax law and the E-9-1-1 surcharge to the federal Mobile Telecommunications Sourcing Act. The amendment also adds a fiscal note.