MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1207

H.P. 881

House of Representatives, March 6, 2003

An Act To Amend the Sales and Use Tax Law Regarding the Food Service and Lodging Industries

Reference to the Committee on Taxation suggested and ordered printed.

Millient M. Macfarland MILLICENT M. MacFARLAND Clerk

Presented by Representative COWGER of Hallowell.
Cosponsored by Senator HALL of Lincoln and
Representatives: ANDREWS of York, HONEY of Boothbay, KOFFMAN of Bar Harbor,
LERMAN of Augusta, McCORMICK of West Gardiner, SUSLOVIC of Portland, Senators:
MAYO of Sagadahoc, NASS of York.

Be	it	enacted	bv	the	People	of the	State	of M	laine as	follows
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Sec. 1. 36 MRSA $\S1752$, sub- $\S9-B$, as amended by PL 1997, c. 557, Pt. D, $\S1$ and affected by $\S4$ and Pt. G, $\S1$, is further amended to read:

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- 9-B. Production. "Production" means an operation or integrated series of operations engaged in as a business or segment of a business that transforms or converts personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed.
- "Production" includes manufacturing, processing, assembling and fabricating operations that meet the definitional requisites, including biological processes that are part of an integrated process of manufacturing organisms or microorganic materials through the application of biotechnology. "Production" also includes the production of prepared foods, as defined in subsection 8-A.
 - "Production" does not include biological processes except as otherwise provided by this subsection, wood harvesting operations, or the severance of sand, gravel, oil, gas or other natural resources produced or severed from the soil or water, exactivities—such—as—cooking—or—preparing—drinks, meals, food—or feed—products—by—a-retailer—for—retail—sale. The foregoing are examples of activities that are not included within the term "production."

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- Sec. 2. 36 MRSA §1760, sub-§31, ¶A, as amended by PL 2001, c. 714, Pt. Z, §1, is further amended to read:
- For use by the purchaser directly and primarily in the production of tangible personal property intended to be sold or leased ultimately for final use or consumption or in the production of tangible personal property pursuant to a contract with the United States Government or any agency thereef, of the United States Government; for use by the purchaser in the operation of a hotel or rooming house; or, in the case of sales occurring after June 30, 2003, for use in the generation of radio and television broadcast signals by broadcast stations regulated under 47 Code of Federal Regulations, Part 73. This exemption applies even if the purchaser sells the machinery or equipment and leases it back in a sale and leaseback transaction. This exemption also applies whether the purchaser agrees before or after the purchase of the machinery or equipment to enter into the sale and leaseback transaction and whether the purchaser's of the machinery use

or equipment in production commences before or after the sale and leaseback transaction occurs; and

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

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74. Property used in production. Sales of tangible personal property, other than fuel or electricity, that becomes an ingredient or component part of, or that is consumed or destroyed or loses its identity directly and primarily in either the production of tangible personal property for later sale or lease, other than lease for use in this State, or the production of tangible personal property pursuant to a contract with the United States Government or any agency of the United States Government. Tangible personal property is "consumed destroyed" or "loses its identity" in that production if it has a normal physical life expectancy of less than one year as a usable item in the use to which it is applied. Sales of tangible personal property used in the production of prepared food or used in the operation of a hotel or rooming house are exempt under this subsection.

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SUMMARY

Under current law, the sale of items to be used in the production of tangible personal property is not subject to the sales tax. The purpose of this bill is to extend that treatment to the food service industry and lodging industry. This bill exempts sales of tangible personal property used in the production of prepared food or used in the operation of a hotel or rooming house from the sales tax. It also exempts sales of machinery and equipment used in the production of prepared food or used in the operation of a hotel or rooming house from the sales tax. These exemptions parallel existing exemptions for property used in production and machinery and equipment, respectively.

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