

MAINE STATE LEGISLATURE

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No. 528

H.P. 406

House of Representatives, February 5, 2007

An Act To Improve the Business Equipment Tax Exemption

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND

Clerk

Presented by Representative SMITH of Monmouth.
Cosponsored by Senator PERRY of Penobscot and
Representatives: BROWNE of Vassalboro, HOTHAM of Dixfield, PERCY of Phippsburg,
PIOTTI of Unity, PRATT of Eddington, WATSON of Bath, WOODBURY of Yarmouth,
Senator: MILLS of Somerset.

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

2 **Sec. 1. 36 MRSA §691, sub-§1, ¶A,** as enacted by PL 2005, c. 623, §1, is
3 amended to read:

4 A. "Eligible business equipment" means qualified property that, in the absence of
5 this subchapter, would first be subject to assessment to the owner under this Part on
6 or after April 1, 2008. "Eligible business equipment" includes, without limitation,
7 repair parts, replacement parts, replacement equipment, additions, accessions and
8 accessories to other qualified business property that first became subject to
9 assessment to the owner under this Part before April 1, 2008 if the part, addition,
10 equipment, accession or accessory would, in the absence of this subchapter, first be
11 subject to assessment to the owner under this Part on or after April 1, 2008. "Eligible
12 business equipment" also includes inventory parts.

13 "Eligible business equipment" does not include:

14 (1) Office furniture, including, without limitation, tables, chairs, desks,
15 bookcases, filing cabinets and modular office partitions;

16 (2) Lamps and lighting fixtures used primarily for the purpose of providing
17 general purpose office or worker lighting;

18 (3) Property owned or used by an excluded person;

19 (4) Telecommunications personal property subject to the tax imposed by section
20 457;

21 (5) Gambling machines or devices, including any device, machine,
22 paraphernalia or equipment that is used or usable in the playing phases of any
23 gambling activity as that term is defined in Title 8, section 1001, subsection 15,
24 whether that activity consists of gambling between persons or gambling by a
25 person involving the playing of a machine. "Gambling machines or devices"
26 includes, without limitation:

27 (a) Associated equipment as defined in Title 8, section 1001,
28 subsection 2;

29 (b) Computer equipment used directly and primarily in the operation
30 of a slot machine as defined in Title 8, section 1001, subsection 39;

31 (c) An electronic video machine as defined in Title 17, section 330,
32 subsection 1-A;

33 (d) Equipment used in the playing phases of lottery schemes; and

34 (e) Repair and replacement parts of a gambling machine or device; or

35 (6) Property located at a retail sales facility and used primarily in a retail sales
36 activity unless the property is owned by a business that operates a retail sales
37 facility in the State exceeding 100,000 square feet of interior customer selling
38 space that is used primarily for retail sales and whose Maine-based operations
39 derive less than 30% of their total annual revenue on a calendar year basis from

1 sales that are made at a retail sales facility located in the State. For purposes of
2 this subparagraph, the following terms have the following meanings:

3 (a) "Primarily" means more than 50% of the time;

4 (b) "Retail sales activity" means an activity associated with the
5 selection and purchase of goods or services or the rental of tangible
6 personal property. "Retail sales activity" does not include production
7 as defined in section 1752, subsection 9-B; and

8 (c) "Retail sales facility" means a structure used to serve customers
9 who are physically present at the facility for the purpose of selecting
10 and purchasing goods or services at retail or for renting tangible
11 personal property. "Retail sales facility" does not include a separate
12 structure that is used as a warehouse or call center facility; or

13 (7) Used property acquired by the owner on or after April 1, 2008 when the
14 primary purpose of the acquisition was to make the property eligible for an
15 exemption under this subchapter.

16 **Sec. 2. 36 MRSA §693, sub-§2**, as enacted by PL 2005, c. 623, §1, is amended to
17 read:

18 **2. False filing.** An individual who knowingly gives false information for the
19 purpose of claiming an exemption under this subchapter or who claims an exemption
20 under this subchapter for used equipment when the primary purpose of the acquisition
21 was to make the property eligible for an exemption under this subchapter commits a Class
22 E crime.

23 **SUMMARY**

24 This bill provides eligibility under the business equipment tax exemption for used
25 property previously subject to property tax in the State as long as the primary purpose of
26 the acquisition of the property was not to obtain eligibility for the exemption. The bill
27 also makes it a Class E crime to claim an exemption when the primary purpose for the
28 acquisition was to obtain eligibility.