

MAINE STATE LEGISLATURE

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No. 1005

S.P. 322

March 2, 2007

An Act To Amend the Tax Laws Concerning Certain Motor Vehicle Dealership Transactions

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 Senator PERRY of Penobscot.

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

2 **Sec. 1. 36 MRSA §1752, sub-§11, ¶B**, as amended by PL 2005, c. 218, §15, is
3 further amended to read:

4 B. "Retail sale" does not include:

5 (1) Any casual sale;

6 (2) Any sale by a personal representative in the settlement of an estate, unless
7 the sale is made through a retailer, or unless the sale is made in the continuation
8 or operation of a business;

9 (3) The sale, to a person engaged in the business of renting automobiles, of
10 automobiles, integral parts of automobiles or accessories to automobiles, for
11 rental or for use in an automobile rented on a short-term basis;

12 (4) The sale, to a person engaged in the business of renting video media and
13 video equipment, of video media or video equipment for rental;

14 (5) The sale, to a person engaged in the business of renting or leasing
15 automobiles, of automobiles for rental or lease for one year or more;

16 (6) The sale, to a person engaged in the business of providing cable or satellite
17 television services, of associated equipment for rental or lease to subscribers in
18 conjunction with a sale of extended cable or extended satellite television services;
19 or

20 (7) The sale, to a person engaged in the business of renting furniture, or audio
21 media and audio equipment, of furniture, audio media or audio equipment for
22 rental pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-
23 105; or

24 (8) The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant
25 to Title 29-A, section 953. For purposes of this subparagraph, "loaner vehicle"
26 means an automobile to be provided to the dealer's service customers for short-
27 term use free of charge pursuant to the dealer's franchise, as defined in Title 10,
28 section 1171, subsection 6.

29 **Sec. 2. 36 MRSA §1760, sub-§21-A** is enacted to read:

30 **21-A. Certain loaner vehicles.** The use of a loaner vehicle provided by a new
31 vehicle dealer, as defined in Title 29-A, section 851, subsection 9, to a service customer
32 pursuant to a manufacturer's or dealer's warranty. For purposes of this subsection,
33 "loaner vehicle" has the same meaning as in section 1752, subsection 11, paragraph B,
34 subparagraph (8).

35 **Sec. 3. 36 MRSA §1760, sub-§23-C**, as amended by PL 2005, c. 618, §2, is
36 further amended to read:

37 **23-C. Certain vehicles purchased or leased by nonresidents.** Sales or leases of
38 the following vehicles to a nonresident if the vehicle is intended to be driven or
39 transported outside the State immediately upon delivery:

- 1 A. Motor vehicles, except:
- 2 (1) Automobiles rented for a period of less than one year; and
- 3 (2) All-terrain vehicles and snowmobiles as defined in Title 12, section 13001;
- 4 B. Semitrailers;
- 5 C. Aircraft; and
- 6 E. Camper trailers, including truck campers.

7 If the vehicles are registered for use in the State within 12 months of the date of purchase,
8 the person seeking registration is liable for use tax on the basis of the original purchase
9 price.

10 Notwithstanding section 1752-A, for purposes of this subsection, the term "nonresident"
11 may include an individual, an association, a society, a club, a general partnership, a
12 limited partnership, a ~~domestic or foreign~~ limited liability company, a trust, an estate, a
13 ~~domestic or foreign~~ corporation and any other legal entity.

14 **Sec. 4. 36 MRSA §1760, sub-§23-D** is enacted to read:

15 **23-D. Certain vehicles purchased or leased by qualifying resident businesses.**
16 The sale or lease of a motor vehicle, except an automobile rented for a period of less than
17 one year or an all-terrain vehicle or snowmobile as defined in Title 12, section 13001, to a
18 qualifying resident business if the vehicle is intended to be driven or transported outside
19 the State immediately upon delivery and intended to be used exclusively in the qualifying
20 resident business's out-of-state business activities.

21 For purposes of this subsection, "qualifying resident business" includes any individual,
22 association, society, club, general partnership, limited partnership, limited liability
23 company, trust, estate, corporation or any other legal entity that:

24 A. Is organized under the laws of this State or has its principal place of business in
25 this State; and

26 B. Conducts business activities from a fixed location or locations outside the State.

27 If the vehicle is registered for use in the State within 12 months of the date of purchase,
28 the person seeking registration is liable for use tax on the basis of the original purchase
29 price.

30 **Sec. 5. 36 MRSA §1811, first ¶**, as amended by PL 2001, c. 439, Pt. TTTT, §2
31 and as affected by §3, is further amended to read:

32 A tax is imposed on the value of all tangible personal property and taxable services
33 sold at retail in this State. The rate of tax is 7% on the value of liquor sold in licensed
34 establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title
35 28-A, chapter 43; 7% on the value of rental of living quarters in any hotel, rooming house
36 or tourist or trailer camp; 10% on the value of rental for a period of less than one year of
37 an automobile, including a loaner vehicle that is provided other than to a motor vehicle
38 dealer's service customers pursuant to a manufacturer's or dealer's warranty; 7% on the
39 value of prepared food; and 5% on the value of all other tangible personal property and

1 taxable services. Value is measured by the sale price, except as otherwise provided. As
2 used in this section “loaner vehicle” has the same meaning as in section 1752, subsection
3 11, paragraph B, subparagraph (8).

4 **SUMMARY**

5 This bill amends the laws regarding the taxability of certain motor vehicle dealership
6 transactions by:

- 7 1. Excluding from the definition of “retail sale” the sale of motor vehicles required
8 by a franchise agreement to be used by service customers of the new car dealer;
- 9 2. Exempting from the sales and use tax the use of a loaner vehicle by a service
10 customer of a new car dealer pursuant to a manufacturer’s or dealer’s warranty.
11 Loaner vehicles that are provided to a service customer but not pursuant to a warranty
12 are taxed at the same rate as a short-term automobile rental, 10% ; and
- 13 3. Specifying that dealers can sell vehicles under certain circumstances on a tax-
14 exempt basis as long as the vehicle is removed from the State immediately and for
15 more than one year.