

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 1006

S.P. 323

March 2, 2007

An Act To Ensure Fairness for Maine Businesses

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 WESTON of Waldo.
Cosponsored by Senators: NASS of York, SHERMAN of Aroostook, STRIMLING of
Cumberland.

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

2 **Sec. 1. 5 MRSA §1811-B** is enacted to read:

3 **§1811-B. Condition of doing business with the State**

4 Notwithstanding any provision of law to the contrary, the Department of
5 Administrative and Financial Services, through the Bureau of General Services, shall
6 ensure that an entity from whom a purchase of services, supplies, materials or equipment
7 for State Government or any department or agency of State Government is made is
8 registered as a seller pursuant to Title 36, section 1754-B. If the seller is located outside
9 of this State, the seller, as a condition of doing business with the State, must register with
10 the State Tax Assessor and collect and remit taxes in accordance with Title 36, Part 3.
11 The State is prohibited from doing business with an entity that refuses to register as a
12 seller and collect and remit taxes pursuant to Title 36, section 1754-B.

13 **Sec. 2. 5 MRSA §1831, sub-§2**, as amended by PL 1989, c. 165, §2, is further
14 amended to read:

15 **2. Limitation.** This section does not apply to purchase of supplies, services,
16 materials and equipment, except for the requirements of section 1811-B, or to public
17 improvements, as described under chapters 153 and 155. This section does not apply to
18 construction, improvement or repair of any and all ways, roads or bridges with
19 appurtenances or other public improvements ~~which~~ that by law are under the supervision
20 of the Department of Transportation in accordance with section 1741.

21 **Sec. 3. 36 MRSA §1754-B, sub-§1, ¶G**, as amended by PL 2005, c. 218, §20, is
22 further amended to read:

23 G. Every seller of tangible personal property or taxable services that has a
24 substantial physical presence in this State sufficient to satisfy the requirements of the
25 due process and commerce clauses of the United States Constitution. The following
26 activities do not constitute a substantial physical presence for the purpose of this
27 paragraph:

28 (1) Solicitation of business in this State through catalogs, flyers, telephone or
29 electronic media when delivery of ordered goods is effected by the United States
30 mail or by an interstate 3rd-party common carrier;

31 (2) Attending trade shows, seminars or conventions in this State;

32 (3) Holding a meeting of a corporate board of directors or shareholders or
33 holding a company retreat or recreational event in this State;

34 (4) Maintaining a bank account or banking relationship in this State; or

35 (5) Using a vendor in this State for printing, drop shipping or telemarketing
36 services; ~~and~~

37 **Sec. 4. 36 MRSA §1754-B, sub-§1, ¶H**, as enacted by PL 2005, c. 218, §21, is
38 amended to read:

1 H. Every person that makes retail sales in this State of tangible personal property or
2 taxable services on behalf of the owner of that property or the provider of those
3 services; and

4 **Sec. 5. 36 MRSA §1754-B, sub-§1, ¶I** is enacted to read:

5 I. Every person that sells tangible personal property or taxable services to the State
6 and that is required to do so as a condition of doing business with the State pursuant
7 to Title 5, section 1811-B or section 1831, subsection 2.

8 **SUMMARY**

9 This bill requires a person selling supplies, services, materials and equipment to the
10 State to register with the State Tax Assessor as a seller and collect and remit sales tax as a
11 condition of doing business with the State. The State is prohibited from doing business
12 with an entity that fails to comply with this requirement.