

MAINE STATE LEGISLATURE

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L D 1808

Date 6/21/23

Majority

(Filing No H-687)

TAXATION

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H P 1153, L D 1808, "An Act to Amend the State Tax Laws"

Amend the bill in Part A in section 3 in the last line (page 1, line 30 in L D) by striking out the following "Regular" and inserting the following 'Special'

Amend the bill in Part B by striking out all of section 5

Amend the bill in Part B in section 8 in the last line (page 4, line 5 in L D) by striking out the following "Regular" and inserting the following 'Special'

Amend the bill in Part C in section 11 in the last line (page 6, line 44 in L D) by striking out the following "Regular" and inserting the following 'Special'

Amend the bill in Part E by striking out all of section 1 and inserting the following

'Sec. E-1. 36 MRSA §4401, sub-§1-A, as enacted by PL 2011, c 285, §11, is amended to read

1-A. Delivery sale. "Delivery sale" means a sale of tobacco products, other than premium cigars, to a consumer in this State when

A The purchaser submits the order for the sale by means of telephonic or other electronic method of voice transmission, the United States mail, the Internet or a delivery service, or

B The tobacco products are delivered by use of a delivery service '

Amend the bill in Part E in section 3 in subsection 1-C in paragraph A in the last line (page 8, line 12 in L D) by striking out the following "or"

Amend the bill in Part E in section 3 in subsection 1-C by striking out all of paragraph B (page 8, lines 13 to 18 in L D) and inserting the following

'B In the case of a distributor or consumer, the price at which the distributor or consumer purchases tobacco products before the allowance of any discount, trade allowance, rebate or other reduction, or

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- 1 C In the case of a remote retail seller
- 2 (1) The actual price paid for an item identified using a stock keeping unit that
3 identifies the item using a unique code or identifier, or
- 4 (2) If the actual price paid for an item is not available, the average of the actual
5 price paid for the item over the 12 calendar months before January 1st of the year
6 in which the remote sale occurs '
- 7 Amend the bill in Part E in section 4 in subsection 2 by inserting after paragraph F the
8 following
- 9 'A distributor may be located within or without the State '
- 10 Amend the bill in Part E in section 6 in subsection 4-B in the first line (page 8, line 38
11 in L D) by inserting after the following "**Remote**" the following '**retail**'
- 12 Amend the bill in Part E in section 6 in subsection 4-B in the first line (page 8, line 38
13 in L D) by inserting after the following "**Remote**" the following '**retail**'
- 14 Amend the bill in Part E in section 6 in subsection 4-B in the first 2 lines (page 8, lines
15 38 and 39 in L D) by striking out the following "or pipe tobacco"
- 16 Amend the bill in Part E in section 6 in subsection 4-B in paragraph A in the 3rd line
17 (page 9, line 3 in L D) by inserting after the following "**remote**" the following '**retail**'
- 18 Amend the bill in Part E in section 6 in subsection 4-B in paragraph B in the first line
19 (page 9, line 5 in L D) by striking out the following "or pipe tobacco is" and inserting the
20 following 'are'
- 21 Amend the bill in Part E in section 6 in subsection 4-B in paragraph B in the 2nd line
22 (page 9, line 6 in L D) by striking out the following "remote seller" and inserting the
23 following 'remote retail seller'
- 24 Amend the bill in Part E in section 6 in subsection 4-B in paragraph B in the last line
25 (page 9, line 8 in L D) by striking out the following "or pipe tobacco"
- 26 Amend the bill in Part E by striking out all of section 7 and inserting the following
- 27 **'Sec. E-7. 36 MRSA §4401, sub-§4-C** is enacted to read
- 28 **4-C. Remote retail seller.** "Remote retail seller" means a person who makes a remote
29 retail sale when
- 30 A. The person's gross sales from sales of tangible personal property or taxable services,
31 as those terms are defined in Part 3, into this State in the previous calendar year or
32 current calendar year exceeds \$100,000, or
- 33 B. The person made sales of tangible personal property or taxable services, as those
34 terms are defined in Part 3, for delivery into this State in at least 200 separate
35 transactions in the previous calendar year or current calendar year '
- 36 Amend the bill in Part E in section 10 in subsection 1 in the first line (page 9, line 37
37 in L D) by inserting after the following "**remote**" the following '**retail**'
- 38 Amend the bill in Part E in section 10 in subsection 1 in the 3rd line (page 9, line 39 in
39 L D) by inserting after the following "**remote**" the following '**retail**'

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- 1 Amend the bill in Part E in section 12 in subsection 4 in paragraph A in the first line
- 2 (page 10, line 19 in L D) by inserting after the following "remote" the following 'retail'
- 3 Amend the bill in Part E in section 12 in subsection 4 in paragraph B in the first line
- 4 (page 10, line 23 in L D) by inserting after the following "remote" the following 'retail'
- 5 Amend the bill in Part E in section 12 in subsection 4 in paragraph C in the first line
- 6 (page 10, line 27 in L D) by inserting after the following "remote" the following 'retail'
- 7 Amend the bill in Part E in section 12 in subsection 4 in paragraph D in the first line
- 8 (page 10, line 32 in L D) by inserting after the following "remote" the following 'retail'
- 9 Amend the bill in Part E in section 13 in subsection 5 in the 4th line (page 10, line 41
- 10 in L D) by inserting after the following "remote" the following 'retail'
- 11 Amend the bill in Part E in section 14 in subsection 6 in the 2nd line (page 11, line 6
- 12 in L D) by inserting after the following "remote" the following 'retail'
- 13 Amend the bill in Part E in section 15 in subsection 7 in the first line (page 11, line 14
- 14 in L D) by inserting after the following "remote" the following 'retail'
- 15 Amend the bill in Part E in section 15 in subsection 7 in the last line (page 11, line 18
- 16 in L D) by inserting after the following "remote" the following 'retail'
- 17 Amend the bill in Part E in section 17 in subsection 3 in the first line (page 11, line 30
- 18 in L D) by inserting after the following "remote" the following 'retail'
- 19 Amend the bill in the bill by inserting after section 18 the following
- 20 '**Sec. E-19. 36 MRSA §4403**, as amended by PL 2019, c 530, Pt A, §§3 to 5, is
- 21 further amended by enacting at the end a new paragraph to read
- 22 A tobacco product may be taxed only once by the State in accordance with this section'
- 23 Amend the bill in Part E in section 20 in §4404 in subsection 1 in the first line (page
- 24 12, line 15 in L D) by inserting after the following "remote" the following 'retail'
- 25 Amend the bill in Part E in section 20 in §4404 in subsection 2 in the 3rd line (page 12,
- 26 line 23 in L D) by inserting after the following "remote" the following 'retail'
- 27 Amend the bill in Part E in section 20 in §4404 in subsection 3 in the 2nd line (page
- 28 12, line 26 in L D) by inserting after the following "remote" the following 'retail'
- 29 Amend the bill in Part E in section 20 in §4404 in subsection 3 in the 4th line (page 12,
- 30 line 28 in L D) by inserting after first occurrence of the following "remote" the following
- 31 'retail'
- 32 Amend the bill in Part E in section 20 in §4404 in subsection 3 in the 4th line (page 12,
- 33 line 28 in L D) by inserting after the 2nd occurrence of the following "remote" the
- 34 following 'retail'
- 35 Amend the bill in Part E in section 20 in §4404 in subsection 3 in the last line (page
- 36 12, line 31 in L D) by inserting after the following "remote" the following 'retail'
- 37 Amend the bill in Part E in section 20 in §4404 in subsection 4 in the first line (page
- 38 12, line 32 in L D) by inserting after the following "remote" the following 'retail'
- 39 Amend the bill in Part E in section 20 in §4404 in subsection 4 in the 2nd line (page
- 40 12, line 33 in L D) by inserting after the following "remote" the following 'retail'

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1 Amend the bill in Part E in section 20 in §4404 in subsection 4 in the 4th line (page 12,
2 line 35 in L D) by inserting after the following "remote" the following 'retail'

3 Amend the bill in Part E in section 20 in §4404 in subsection 4 in the 9th line (page 12,
4 line 40 in L D) by inserting after the following "remote" the following 'retail'

5 Amend the bill in Part E in section 21 in the first indented paragraph in the last line
6 (page 13, line 7 in L D) by striking out the following "or licensed remote seller"

7 Amend the bill in Part E in section 22 in subsection 3 in the 2nd line (page 13, line 11
8 in L D) by inserting after the following "remote" the following 'retail'

9 Amend the bill in Part E in section 23 in §4404-B in subsection 1 in the first line (page
10 13, line 22 in L D) by inserting after the following "remote" the following 'retail'

11 Amend the bill in Part E in section 23 in §4404-B in subsection 3 in the first line (page
12 14, line 1 in L D) by inserting after the following "remote" the following 'retail'

13 Amend the bill in Part E in section 23 in §4404-B in subsection 4 in paragraph A in the
14 first line (page 14, line 5 in L D) by inserting after the following "remote" the following
15 'retail'

16 Amend the bill in Part E in section 23 in §4404-B in subsection 4 in paragraph B in the
17 first line (page 14, line 6 in L D) by inserting after the following "remote" the following
18 'retail'

19 Amend the bill in Part E in section 24 in subsection 2 in paragraph A in the first line
20 (page 14, line 15 in L D) by inserting after the following "remote" the following 'retail'

21 Amend the bill in Part E in section 24 in subsection 2 in paragraph B in subparagraph
22 (1) in the first line (page 14, line 19 in L D) by inserting after the following "remote" the
23 following 'retail'

24 Amend the bill in Part E in section 24 in subsection 2 in paragraph C in the last line
25 (page 14, line 23 in L D) by inserting after the following "remote" the following 'retail'

26 Amend the bill in Part E in section 24 in subsection 2 in the first blocked paragraph in
27 the 3rd line (page 14, line 26 in L D) by inserting after the following "remote" the
28 following 'retail'

29 Amend the bill in Part E by inserting after section 25 the following

30 '**Sec. E-26. Appropriations and allocations.** The following appropriations and
31 allocations are made

32 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**
33 **Revenue Services, Bureau of 0002**

34 Initiative Provides one-time funding for computer programming costs

35	GENERAL FUND	2023-24	2024-25
36	All Other	\$3,920	\$0
37			
38	GENERAL FUND TOTAL	<u>\$3,920</u>	<u>\$0</u>

39 '

40 Amend the bill by inserting after Part F the following

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'PART G

Sec. G-1. 36 MRS §1112-C, sub-§3, as enacted by PL 2021, c 630, Pt C, §13, is amended to read

3. Penalty Open space penalty. If land classified as open space under this subchapter is withdrawn from taxation under this subchapter, the assessor shall impose a penalty upon the owner The penalty is the greater of

A An amount equal to the taxes that would have been assessed on the land on the first day of April for the 5 tax years, or any lesser number of tax years starting with the year in which the land was first classified, preceding the withdrawal had that land been assessed in each of those years at its just value on the date of withdrawal less all taxes paid on that land over the preceding 5 years, or any lesser number of tax years starting with the year in which the land was first classified, and increased by interest at the prevailing municipal rate from the date or dates on which those amounts would have been payable, and

B An amount computed by multiplying the amount, if any, by which the just value of the land on the date of withdrawal exceeds the 100% valuation of the land pursuant to this subchapter on the preceding April 1st by the following rates

(1) If the land was subject to valuation under this subchapter for 10 years or fewer prior to the date of withdrawal, the rate is 30%, and

(2) If the land was subject to valuation under this subchapter for more than 10 years prior to the date of withdrawal, the rate is 30% reduced by one percentage point for each full year beyond 10 years that the land was subject to valuation under this subchapter prior to the date of withdrawal, except that the minimum rate is 20%

For purposes of this subsection, just value at the time of withdrawal is the assessed just value of comparable property in the municipality adjusted by the municipality's certified assessment ratio

Sec. G-2. 36 MRS §1112-C, sub-§3-A is enacted to read

3-A. Farmland penalty. If land classified as farmland under this subchapter is withdrawn from taxation under this subchapter, the assessor shall impose one of the following penalties

A If land is withdrawn within 10 years of a transfer from either open space tax classification under this subchapter or tree growth tax classification under subchapter 2-A, the assessor shall impose a penalty equal to the amount calculated under subsection 3, or

B If the penalty under paragraph A does not apply, the assessor shall impose a penalty upon the owner equal to the taxes that would have been assessed on the land on the first day of April for the 5 tax years, or any lesser number of tax years starting with the year in which the land was first classified, preceding the withdrawal had that land been assessed in each of those years at its just value on the date of withdrawal less all taxes paid on that land over the preceding 5 years, or any lesser number of tax years starting with the year in which the land was first classified, and increased by interest at the

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1 prevailing municipal rate from the date or dates on which those amounts would have
2 been payable

3 For purposes of this subsection, just value at the time of withdrawal is the assessed just
4 value of comparable property in the municipality adjusted by the municipality's certified
5 assessment ratio

6 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
7 number to read consecutively

8 **SUMMARY**

9 This amendment does the following

10 1 It removes the section of the bill that provided that certain restricted property may
11 be considered comparable to property not so restricted for valuation purposes if the
12 comparison is adjusted for the restriction,

13 2 It makes the following changes to the portions of the bill concerning the tobacco
14 products tax

15 A Removes references to pipe tobacco,

16 B Explicitly excludes premium cigars from the definition of "delivery sale",

17 C Changes "remote sale" to "remote retail sale" and "remote seller" to "remote retail
18 seller",

19 D Removes an unnecessary reference to "licensed remote seller",

20 E Prohibits tobacco products from being taxed by the State more than once under the
21 tax,

22 F States that cost price is exclusive of any discount or other reduction,

23 G In the definition of "remote retail seller," replaces "sales of premium cigars or pipe
24 tobacco" with "sales of tangible personal property or taxable services", and

25 H Clarifies that the tobacco products tax applies to distributors located outside of the
26 State, including distributors of electronic hookahs or so-called vape pens,

27 3 It reverts a recent change in the penalty for withdrawing land from farmland tax
28 classification such that the penalty is the recapture of the taxes that would have been paid
29 on the land for the past 5 years if it had not been classified as farmland, less all taxes that
30 were actually paid during those 5 years, and interest at the rate set by the town during those
31 5 years on delinquent taxes, and

32 4 It replaces effective date references to the First Regular Session with references to
33 the First Special Session of the 131st Legislature

34 **FISCAL NOTE REQUIRED**

35 (See attached)



131st MAINE LEGISLATURE

LD 1808

LR 121(02)

An Act to Amend the State Tax Laws

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-687)

Committee: Taxation

Fiscal Note Required: Yes

Fiscal Note

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
Net Cost (Savings)				
General Fund	(\$103,080)	(\$263,000)	(\$272,000)	(\$281,000)
Appropriations/Allocations				
General Fund	\$3,920	\$0	\$0	\$0
Revenue				
General Fund	\$107,000	\$263,000	\$272,000	\$281,000

Fiscal Detail and Notes

This bill will increase General Fund revenue by \$107,000 in fiscal year 2023-24 and \$263,000 in fiscal year 2024-25. This includes an increase of \$5,000 in fiscal year 2023-24 and \$12,000 in fiscal year 2024-25 from recycling assistance fees and an increase of \$102,000 in fiscal year 2023-24 and \$251,000 in fiscal year 2024-25 associated with changes to the tobacco tax law governing remote retail sales of tobacco products. Other provisions of the bill will have minor impacts on General Fund revenue that do not require any change to the budget.

The bill includes a one-time General Fund appropriation to the Department of Administrative and Financial Services, Bureau of Revenue Services for computer programming costs related to tobacco tax collection from remote retail sellers.