

# MAINE STATE LEGISLATURE

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EIGHTY - SEVENTH LEGISLATURE

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Legislative Document

No. 473

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H. P. 1356

House of Representatives, February 12, 1935.

Referred to Committee on Taxation and 1,500 copies ordered printed.  
Sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. Shaw of Millbridge.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
THIRTY-FIVE

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AN ACT Relating to the Tax on the Privilege of Selling at Retail.

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

**Sec. 1. Imposition of tax.** 1. For the privilege of selling tangible personal property at retail, and services, as hereafter defined, in this state, every vendor shall pay a tax of 2% upon the receipts therefrom, except as hereinafter provided. This tax shall be in addition to all other taxes.

2. The burden of proof that the sale of tangible personal property was not a sale at retail shall be upon the vendor, unless such vendor shall have taken from the vendee a certificate signed by and bearing the name and address of the vendee to the effect that the property was purchased for resale. For the purpose of the proper administration of this act, and to prevent evasion of the tax hereby imposed, it shall be presumed that all receipts from the sale of tangible personal property at retail and services are subject to the tax until the contrary is established.

3. In any case in which tangible personal property or services are sold under a contract made prior to January 1st, 1935, which specifies and fixes the sale price and such sale is taxable under this act, the vendor may add the tax imposed by this act and collect it from the vendee.

**Sec. 2. Minimum tax.** If a vendor has receipts of not more than \$500 for any quarter year period for which a return is required to be made, he

shall not be required to pay a tax under this act. If a vendor has receipts of more than \$500 but not more than \$1000 for any quarter year period, he shall pay, in lieu of the tax imposed by section 1 a minimum tax of \$5 for such quarter year period.

**Sec. 3. Exemptions.** The following are exempted from the tax imposed by sections 40 to 49 herein; 1. Sales of motor fuels, upon which a tax is imposed pursuant to chapter 224 of the public laws of 1923, as amended;

2. Sales of telephone, telegraph and transportation services; sales of electricity and all other sales of goods or services to the extent to which the same may be subject to a tax upon the gross receipts therefrom under any other law of this state.

3. Sales of tangible personal property or services by or to the United States, the state of Maine, and its counties, municipalities and any other political subdivisions thereof, and sales of whatever character upon which this state is, by virtue of the constitution of the United States or otherwise, without power to impose a tax.

**Sec. 4. Unlawful advertisement.** It shall be unlawful for any taxpayer to advertise in any manner to the effect that the tax imposed by this act will be assumed and not added to his selling price of the property or services sold. Any person violating this provision shall be guilty of a misdemeanor. Each such advertisement or each day during which such advertisement shall continue shall be deemed and construed to constitute a separate offense.

**Sec. 5. Records.** Every vendor selling tangible personal property at retail or services in this state and subject to the tax imposed by this act shall keep such records of receipts and in such form as the tax commissioner may by regulation require. Such records shall be offered for inspection and examination at any time upon demand by the tax commissioner or his duly authorized agent or employee, and shall be preserved for a period of 3 years, except that the tax commissioner may consent to their destruction within that period, or may require that they be kept longer.

**Sec. 6. Returns.** Every vendor selling tangible personal property at retail or services in this state and subject to the tax imposed by this act shall file with the tax commissioner a return of his receipts for each quarter year period after the effective date of this act, except that if a person keeps his books and records on the basis of a fiscal year other than the calendar year, or for other sufficient reason, the tax commissioner may permit returns to be made by quarter year periods of his fiscal year so as to

include all receipts after April 1st, 1935; provided, however, that the tax commissioner, if he deems it necessary in order to insure the payment of the tax imposed by this act may require returns of receipts to be made for other than quarter year periods. Returns shall be filed within 30 days from the expiration of the period covered thereby, except that the tax commissioner, if he deems it necessary to insure the payment of the tax, may require that they be sooner filed. The forms of such returns shall be prescribed by the tax commissioner and shall contain such information as he may deem necessary for the proper administration of this act.

**Sec. 7. Installment sales and cancelled sales, how reported.** 1. **Installment sales.** The tax commissioner may provide by regulation that receipts from sales on the installment plan under conditional contracts of sale may be reported as of the dates when the payments become due, in which event such receipts shall become subject to the tax at such times and not at the time when the contract of sale was entered into.

2. **Cancelled sales.** The tax commissioner shall provide by regulation for the exclusion from receipts of amounts representing sales where the contract of sale has been cancelled, or the goods returned, or the purchase price or charge for the same or any part thereof, is proven uncollectible, or in case the tax has been paid upon such receipts, for a credit for the amount of the tax against future tax liability of the vendor.

**Sec. 8. Payment of tax.** At the time of filing a return of receipts each vendor shall pay to the tax commissioner the tax imposed by this act for the period covered by such return. All taxes for the period for which a return is required to be filed shall be due and payable on the date established for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed shows the correct amount of tax due. If any vendor shall make sales of tangible personal property at retail or services while his license is suspended, the tax prescribed by this act shall nevertheless be imposed and payable with respect to such sales, but the payment of such tax shall not afford relief from any of the penalties prescribed by this act for selling while a license is suspended.

**Sec. 9. Licenses.** 1. Every vendor engaged in the sale of tangible personal property at retail or services in this state on the effective date of this act shall be deemed to have a license so to do.

2. Every vendor engaging in the sale of tangible personal property at retail or services in this state after the effective date of this act shall first

apply to and procure from the tax commissioner a license so to do, giving the name and address of the vendor and the address of the place or places where such sales are to be made. With each such application there shall be paid the sum of \$10 to be credited against the tax found to be due under this act.

3. The tax commissioner shall have power to suspend the license of any vendor who shall violate or fail to comply with any provision of this act or any rule or regulation adopted by him pursuant to this act and shall also have power to restore licenses after such suspension. A license shall be suspended in case a return or corrected return is not filed as in this act provided, or in case any tax under any assessment made by the tax commissioner, or penalty thereon, shall not be paid within 30 days from the giving of notice of such assessment, unless proceedings instituted to contest the tax are pending, or the tax commissioner shall have granted an extension of time for the filing of the return or the payment of the tax, but any such extension shall not have the effect of changing the due date of the tax.

4. The filing of delinquent returns or the payment of delinquent taxes and penalties shall have the effect of restoring the license.

5. Any vendor who shall sell tangible personal property at retail or services in this state after his license shall have been suspended, or without procuring a license as provided in subsection 2 of this section, and the officers of any corporation which shall so sell, shall be guilty of a misdemeanor.

6. The license to sell tangible personal property at retail or services provided for in this act shall be in addition to any and all other licenses which may be required by law.

**Sec. 10. Definitions.** For the purposes of this act and unless the context clearly indicates a different meaning;

1. The word "sale" means any exchange, barter or transfer in any manner or by any means whatsoever for a consideration;

2. The term "retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale;

3. The word "consumer" means any person who buys tangible personal property or services for consumption by himself or others, without subsequent resale, trade or exchange for profit;

4. The word "vendor" means any individual, partnership, association or corporation who sells tangible personal property or services to a consumer;

5. The term "tangible personal property" means all chattels, movables,

including boats and vessels, merchandise and stock in trade, furniture and personal effects, live stock, vehicles, farming implements, movable machinery and equipment, but such words do not include any structure, improvement, machinery equipment or fixtures attached to and forming a part of real property.

6. The word "services" means:

(a) Any beneficial act performed or rendered in connection with and incident to the sale of tangible personal property by a vendor for or on behalf of a consumer, for a consideration;

(b) Admission to theaters, recreation parks and any other places of recreation and amusement;

(c) The use of rooms and suites in hotels and lodging houses;

(d) The cleaning, dyeing or repairing of clothing and household or other furnishings and equipment by laundries, dry cleaning and dyeing establishments;

(e) The use of billiard halls, pool tables and other similar equipment for recreation, whether payment for such use is evidenced by tickets of admission or by the amounts paid for each separate act of use of said halls, tables or other equipment.

7. The word "receipts" means the total amount of the sale of tangible personal property sold at retail in this state, valued in money, whether received in money, credits, or property of any kind or nature, or otherwise, and also any amount for which credit is allowed by the seller to the purchaser, without any deductions therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest or discount paid or any other expense whatsoever. It shall also include the total amount of the consideration received for performing services taxable under this act, valued in money, whether received in money or otherwise.