

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

E I G H T Y - E I G H T H L E G I S L A T U R E

Legislative Document

No. 486

H. P. 1321

House of Representatives, February 11, 1937.

Referred to Committee on Taxation. Sent up for concurrence and 1000 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Palmer of Island Falls by request.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

AN ACT to Impose a Tax on the Sale of Cosmetics.

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

Sec. 1. Imposition of tax, rate. An excise tax on sales of cosmetics or toilet preparations is hereby levied and imposed, at the rate of 10% of the retail sale price thereof. Only 1 sale of the same article shall be used in computing the amount of tax due under the provisions of this act.

Sec. 2. Tax, how paid; stamps, how affixed and cancelled. The tax herein imposed shall be paid by the purchase of stamps as provided in this act. No stamps shall be of a denomination of less than $\frac{1}{2}$ cent. The stamp or stamps shall be affixed to each package with aggregate denomination of not less than the amount of the tax upon the sale thereof. The stamp or stamps, so affixed, shall be prima facie evidence of the payment of the tax imposed by this act. Excepting as hereinafter provided, such stamp or stamps shall be affixed by each retail dealer in this state at or before time of sale and cancelled by writing across the face thereof the name or initials of such retail dealer and the date of cancellation. The state tax assessor, under authority of this act, may cause any retail dealer, by written notice so to do, to affix such stamp or stamps within 24 hours after receipt of such cosmetics or toilet preparations by him and prior to

the sale thereof, when the state tax assessor has cause to believe that such retail dealer has attempted to evade such tax or has been convicted under any of the provisions of this act.

Sec. 3. Definitions. As used in this act: "Person" includes firms and corporations;

"Wholesale dealer" includes only those persons who sell cosmetics or toilet preparations to retail dealers or for purposes of resale only;

"Retail dealer" includes every person other than a wholesale dealer engaged in the business of selling cosmetics or toilet preparations in this state, irrespective of quantity or amount or number of sales thereof;

"Sale" includes exchange, barter, gift, offer for sale, and distribution and excludes transactions in interstate or foreign commerce;

"Cosmetics or toilet preparations" includes all cosmetics and perfumes, essences, extracts, toilet waters, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, tooth and mouth washes, dentifrices, tooth pastes, aromatic cachous, toilet powders, and any similar substances, articles, or preparations, by whatsoever name known or described, which are used or applied to or intended to be used or applied for toilet purposes but not including soaps; "soaps" include all articles containing saponaceous materials excepting dentifrices, tooth pastes, shampoos and shaving soaps or creams, which said excepted articles shall be considered as "toilet preparations";

"Package" means the individual package, bottle or other container in or from which retail sales of cosmetics or toilet preparations are normally made or intended to be made.

Sec. 4. Wholesale and retail dealers to retain invoices. At the time of delivery of cosmetics or toilet preparations to any person in this state each wholesale dealer in this state shall make a true duplicate invoice showing the date of delivery, the amount and value of each shipment of cosmetics or toilet preparations delivered and the name of the purchaser to whom delivery is made, and shall retain the same for a period of 2 years, subject to the use and inspection of the state tax assessor.

Each retail dealer in this state shall procure and retain invoices showing the amount and value of each shipment of cosmetics or toilet preparations received by him, the date thereof and the name of the shipper and shall retain the same for a period of 2 years subject to the use and inspection of the state tax assessor.

Sec. 5. Powers and duties of state tax assessor. The state tax assessor shall design and procure the stamps herein provided for and shall enforce and administer the provisions of this act. The state tax assessor shall

have authority to promulgate such rules and regulations as he may deem necessary to carry out the provisions of this act and may adopt different detailed regulations applicable to diverse methods and conditions of sale of cosmetics or toilet preparations in this state, prescribing, in each class of cases, upon whom, as between the wholesale dealer and the retail dealer, the primary duty of affixing stamps shall rest and the manner in which stamps shall be affixed. All books, papers, invoices, and records of any wholesale or retail dealer in this state whether or not required under the provisions of this act to be kept by him, showing his sales, receipts and purchases of cosmetics or toilet preparations shall at all times, during the usual business hours of the day, be open for inspection of the state tax assessor for such purpose; and the state tax assessor shall have power to investigate and examine the stock of cosmetics or toilet preparations in and upon any premises where the same are placed, stored or sold, for the purpose of determining whether or not the provisions of this act are being obeyed.

The bureau of taxation is hereby authorized to employ such clerical assistance as may be necessary to carry out and administer the provisions of this act, and to prepare and print such blanks, forms, reports, receipts and any and all other things which may be necessary to carry out the provisions of this act, and to prepare and print such blanks, forms, reports, receipts and any and all other things to provide for the administration of this act, and to pay any and all such expenses so incurred out of the fund collected under the provisions of this act. The sum of \$5000, or so much thereof as may be necessary, is hereby appropriated out of any money in the contingent fund in the state treasury not otherwise appropriated to be available upon the taking effect of this act and to be used by the bureau of taxation in defraying the expenses which may be incurred in administering and preparing to administer this act before sufficient funds have been collected from the tax as hereinbefore provided. As soon as a sufficient amount of revenue shall have been collected under the provisions of this act the \$5000 hereby appropriated, or so much thereof as shall have been used, shall be returned to the contingent fund.

Sec. 6. Sale of stamps by state treasurer; discount allowed, when; sale on credit; redemption of stamps. All stamps, when procured by the state tax assessor, shall be immediately delivered to the treasurer of state who shall execute duplicate receipts therefor showing the number and aggregate face value of each denomination received by him and deliver 1 such receipt to the state tax assessor and the duplicate thereof to the state controller. The treasurer of state shall sell the stamps and shall, on the 5th day of each month, make a report in duplicate showing all sales by him

made during the preceding month, with the names of the purchasers and the number of each denomination and the aggregate face value purchased by each, and deliver 1 copy thereof to the state tax assessor and the other to the state controller. The treasurer of state shall be accountable for all stamps received and unsold by him. Such stamps shall be sold and/or accounted for at the face value thereof, excepting that the state tax assessor may, by regulation certified to the treasurer of state, authorize the sale thereof to retail dealers in this state at a discount of not exceeding 10% of such face value as a commission for affixing and cancelling such stamps; and excepting further that the state tax assessor may, by like regulation so certified, authorize the delivery of stamps to retail dealers in this state on credit, allowing the same discount as when sold for cash, if and when the purchaser shall file with the state tax assessor a bond payable to the state of Maine, in such form and amount as the state tax assessor shall prescribe, and with surety or sureties to the satisfaction of the treasurer of state, conditioned upon the payment to the treasurer of state for stamps so delivered within such period of time after delivery thereof as may be so prescribed and the making of such reports and settlements as the state tax assessor may require; and the state tax assessor may, by further regulations, provide for cancelling, renewing or increasing such bond or for the substitution of the surety thereon. The treasurer of state shall redeem and pay for any unused or spoiled stamps on written verified requests made by the purchaser, his administrators, executors, successors, or assigns. Such payment shall be made from an appropriation to the treasurer of state for this purpose.

Sec. 7. Moneys received, where credited. The moneys received into the state treasury under the provisions of this act shall be credited to the general state funds.

Sec. 8. Penalties. Whoever, being a retail dealer in this state, fails to produce, on demand of the state tax assessor, invoices of all cosmetics or toilet preparations purchased or received by him within 2 years prior to such demand, unless upon satisfactory proof it is shown that such non-production is due to providential or other causes beyond his control, or, after written notice so to do, has in his possession packages of cosmetics or toilet preparations not bearing the stamp herein required to be affixed thereto, unless such packages shall have been received within the immediately preceding 24 hours shall be fined not less than \$25 nor more than \$100.

Whoever prevents or hinders the state tax assessor from making a full inspection of any place where cosmetics or toilet preparations subject to the tax imposed by this act are sold or prevents or hinders the full inspec-

tion of invoices, books, records or papers required to be kept under the provisions of this act, shall be punished by a fine of not less than \$25 nor more than \$100.

Whoever sells cosmetics or toilet preparations at retail, or for any purpose other than for resale, in this state without having first affixed to each individual package thereof the stamp or stamps required to be affixed thereto by this act shall be punished by a fine of not more than \$100, or by imprisonment for not more than 90 days, or by both such fine and imprisonment, in the discretion of the court.