

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 39**

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H. P. 54

House of Representatives, January 15, 1941.

On motion of Mr. Farwell of Unity taken from the table and on further motion by the same gentleman, referred to Committee on Taxation and sent up for concurrence. 1,500 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Farwell of Unity.

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**STATE OF MAINE**

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-ONE

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**AN ACT Levying Certain Luxury Taxes.**

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

**TITLE I**

**Tobacco Tax**

**Sec. 1. Definitions of words and terms.** As used in this title: "person" includes firms, corporations, co-partnerships and associations; "wholesale dealer" includes only those persons who sell manufactured tobacco products to licensed retail dealers or for purposes of resale only; "retail dealer" includes every person other than a wholesale dealer engaged in the business of selling manufactured tobacco products 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; "package" means the individual package, box or other container in or from which retail sales of manufactured tobacco products are normally made or intended to be made; "manufactured tobacco products" include cigars, cheroots, stogies, cigarettes, snuff, chewing tobacco, and smoking tobacco. Nothing in this title shall be construed as requiring a tax to be paid on the privilege of selling leaf tobaccos.

**Sec. 2. Excise tax on sales of manufactured tobacco products; rate.** An excise tax is hereby levied and imposed on all sales, within this state, of manufactured tobacco products enumerated in section 1, at the rate of 5% of the retail selling price of each article or commodity so enumerated. Whenever the retail selling price of any such articles or commodities is referred to, as in this section, as a basis for computing the amount of the tax imposed by this section, it is intended to mean the ordinary, customary or usual price paid by the consumer for each individual cigar, package of cigarettes, package of smoking tobacco, etc., before the amount of the tax is added.

**Sec. 3. Payment of tax; method of affixing stamps.** The excise tax imposed by this title shall be paid by affixing stamps in the manner herein set forth. A stamp or stamps shall be affixed to each package of an aggregate denomination not less than the amount of the tax upon the contents thereof. In the case of cigars, stogies, cheroots, and chewing tobacco, the stamps shall be affixed to the box, or container, in which or from which normally sold at retail. In the case of cigarettes, snuff, smoking tobacco and chewing tobacco wrapped in packages of 2 pounds or less, the stamps shall be affixed to each individual package. The stamp or stamps so affixed shall be prima facie evidence of the payment of the tax imposed under this title.

Each wholesale dealer in this state receiving any manufactured tobacco products at his place of business, shall affix to each package the stamp or stamps required under this section, and cancel the same by stamping his name and the date of cancellation across the face thereof, within 48 hours after the receipt of such manufactured tobacco products and in accordance with and subject to any rules or regulations presented by the state tax assessor under authority of this title, unless such stamps have been previously affixed. Each retail dealer in this state receiving any manufactured tobacco products at his place of business shall, within 24 hours after the receipt of such products and prior to their sale by him, affix the required stamp or stamps to each package and cancel the same by stamping his name and the date of cancellation across the face thereof, in accordance with and subject to any rules and regulations presented by the state tax assessor under authority of this title, unless such stamp or stamps have been previously affixed. In the event any manufactured tobacco products, enumerated in section 1 of this title, are manufactured within the state they shall be stamped by the manufacturer when and as sold.

**Sec. 4. Duplicate invoice; contents; copy of freight bill filed, when.** At the time of delivering any manufactured tobacco products to any person,

each wholesale dealer in this state shall make a true and duplicate invoice showing the date of delivery, the amount of and value of each shipment of manufactured products 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 or his authorized deputies.

Every retail dealer in this state purchasing or receiving any manufactured tobacco products from without the state, whether the same shall have been ordered through a wholesale dealer in this state, or by drop shipment or otherwise, shall within 5 days after receipt of the same mail a duplicate invoice of all such purchases and receipts to the state tax assessor. In the event any manufactured tobacco products are shipped into the state, the railroad company, express company, or any other public carrier transporting any shipment thereof shall file with the state tax assessor a copy of the freight bill within 10 days after the delivery in this state of each shipment.

**Sec. 5. License required.** Every person engaged in the business of selling any manufactured tobacco products enumerated in section 1 above, shall within 30 days after this title becomes effective and annually thereafter on or before July 1 of each year file with the state tax assessor an application for a license permitting him to engage in such business. All applications for such licenses shall be filed on blanks furnished by the state tax assessor for that purpose and shall contain a statement including the name of the applicant, the post office address and the nature of the business, whether wholesale or retail, in which engaged and such other information as the treasurer of state may require. Every person hereafter intending to engage in such business shall, precedent to so engaging, file an application for a license in the manner and form herein required. At the time of making such application each such person desiring to engage in the wholesale business of selling manufactured tobacco products shall pay to the state tax assessor a license tax in the sum of \$25, or if desiring to engage in such retail business, such tax in the sum of \$2 for each place where he proposes to carry on such business. When such application is filed after July 1 of each year the license tax required to be paid shall be proportioned in amount to the remainder of the license year, except that it shall not be less than  $\frac{1}{5}$  of the whole amount in any 1 year. The revenues and fines collected under the provisions of this section and section 15 shall be paid to the state tax assessor.

Upon receipt of an application for a license filed in accordance with the provisions of this section, together with the amount of fee required for

license tax, the state tax assessor shall issue such license permitting the applicant to engage in the business of selling any or all of the manufactured tobacco products enumerated in section 1 of this title. Such license shall be displayed at all times in some conspicuous place at the place where such business is carried on.

**Sec. 6. Separate place of business; license not transferable.** In case any business is conducted at 2 or more separate places, a separate license for each place of business shall be required.

No license issued permitting the sale of any manufactured tobacco products shall be transferable and any license issued to any person who shall afterwards retire from business shall be null and void.

No person shall engage in the wholesale or retail business of selling any manufactured tobacco products without having a license therefor, except that in case of the dissolution of a partnership by death, the surviving partner, or partners may operate under the license of the partnership until the time of its expiration and the heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy appointed by any competent authority, may operate under the license of the person so succeeded in possession by such heir, representative, receiver or trustee in bankruptcy. Provided, that anyone may be allowed to operate for 10 days after purchase of stock in bulk, pending granting of license upon application made promptly upon such purchase.

Nothing in this section shall be construed as requiring a license for the privilege of selling leaf tobaccos.

**Sec. 7. Dealer's license revoked upon conviction.** If a person convicted of any violation of this title is the holder of a wholesale or retail license, to sell manufactured tobacco products, the court may enter an order revoking such license and the clerk of the court shall certify a copy of such order in duplicate to the state tax assessor and thereafter such person shall be deemed and considered not to have obtained any license; provided, however, that after the expiration of 1 year from the date of such revocation such person shall be entitled to apply for such license.

**Sec. 8. Powers and duties of commission.** The state tax assessor shall design and procure the stamps herein provided for and shall enforce and administer the provisions of this title. The state shall have authority to promulgate such rules and regulations as it may deem necessary to carry out the provisions of this title and may adopt different detailed regulations applicable to diverse methods and conditions of sale of manufactured to-

bacco products 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. A copy of such regulations shall be furnished to each licensed dealer in this state in such a manner as the state tax assessor may determine. Any such rule or regulation so furnished, excusing a wholesale dealer from affixing stamps under the circumstances of the particular case, shall be a defense in the prosecution of such dealer for violation of section 3 of this title. All books, papers, invoices, and records of any wholesale or retail dealer in this state, whether or not required under the provisions of this title to be kept by him, showing his sales, receipts and purchases of manufactured tobacco products, shall at all times, during the usual business hours of the day, be open for the inspection of the state tax assessor or his deputies for such purpose; and the state tax assessor or his deputies shall have power to investigate and examine the stock of such manufactured products 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 title are being obeyed.

**Sec. 9. Duplicate list of stamps compiled by state tax assessor, sale of stamps, weekly report; discount allowed, when; unused or spoiled stamps redeemed, when.** The state tax assessor shall compile in duplicate a list of all stamps procured by him showing the number and aggregate face value of each denomination procured by him and shall retain one such list and shall deliver the duplicate thereof to the state controller. The state tax assessor 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 retain one copy thereof and deliver the other to the state auditor. The state tax assessor 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 is hereby authorized to sell the same to wholesale or retail dealers outside of this state at a discount of not exceeding 5% of such face value as a commission for affixing and cancelling such stamps; and excepting further that the state tax assessor is also hereby authorized to deliver such stamps to wholesale or retail dealers in this state or to wholesale dealers outside of 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 state tax assessor, conditioned upon the payment 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 may be required; 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 state tax assessor 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 the proceeds of the title.

**Sec. 10. Certain town treasurers may be appointed deputies, duties; weekly report and payment to state tax assessor; per cent to deputies.** The state tax assessor may appoint certain town treasurers as his deputies for the purpose of selling such stamps, excepting that no town treasurer shall be thereby authorized to sell the same at a discount or on credit. It shall be the duty of any town treasurer so appointed, to act as such deputy, and all the powers and duties thereby imposed upon such town treasurer shall be deemed and considered to be within the scope of his office as town treasurer for all purposes. The state tax assessor shall be responsible for the delivery of stamps to any town treasurer so appointed, and may prescribe such regulations and forms of receipts and reports as he may deem necessary and advisable for the transaction of the business of selling such stamps. Each such town treasurer shall pay weekly to the state tax assessor all moneys arising from the sale of such stamps by him together with a report showing the names of the purchasers and the number of each denomination and the aggregate face value purchased by each, which the state tax assessor shall include in his monthly report to the state controller. But such town treasurer shall retain for his services an amount equal to 1% of the proceeds of such sales.

**Sec. 11. Seizure and sale of manufactured tobacco products, when; notice of sale; collection of tax; penalty and costs.** Whenever the state tax assessor or any of his deputies or employees authorized by him for such purpose shall discover any manufactured tobacco products, subject to tax as provided by this title, and upon which the tax has not been paid as herein required, the state tax assessor, or such deputy or employee is hereby authorized and empowered forthwith to seize and take possession of such manufactured tobacco products, which shall thereupon be deemed to be goods forfeited to the state and the state tax assessor may within a reasonable time thereafter by a notice posted upon the premises where such seizure is made, or by publication in some newspaper having circulation in the county wherein such seizure is made, at least 5 days before the day of sale, sell such forfeited goods, and from the proceeds of

such sale shall collect the tax due thereon together with a penalty of 50% thereof and the costs incurred in such proceedings and pay the balance, if any, to the person in whose possession such forfeited goods were found; provided, however, that such seizure and sale shall not be deemed to relieve any person from fine or imprisonment provided herein for violation of any provision of this title. Such sale shall be made in the county where most convenient and economical. All moneys collected under the provisions of this section shall be paid to the state tax assessor.

**Sec. 12. Revocation of license; procedure.** Upon notice and hearing the state tax assessor may revoke any wholesale or retail license for violation of any provisions of this title. The state tax assessor shall first notify the licensee in writing, specifying the violations charged and fixing the time, not less than 5 days after the date of service of such notice, and the place at which such licensee shall appear to show cause why his license should not be revoked. The state tax assessor shall, at the time and place so specified, accord to the licensee a hearing in person and by counsel. The licensee shall be entitled to offer evidence and to compel the attendance of witnesses and the production of books, papers and records. An appeal may be taken from the action of the state tax assessor in revoking a license to the superior court of the county in which the place of business of the licensee is located, by filing a petition therefor with such court within 10 days from the date of the state tax assessor's order and giving bond to the state of Maine in the sum of \$100, with surety to the satisfaction of the clerk of such court.

**Sec. 13. Penalty for failure to affix stamps.** Whoever sells any manufactured tobacco products in this state without there having been first affixed to each package thereof the stamp or stamps required to be affixed thereto by this title shall be punished by a fine of not more than \$100, or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment, at the discretion of the court.

**Sec. 14. Penalty for forging, altering or counterfeiting stamps.** Whoever falsely or fraudulently makes, forges, alters or counterfeits any stamp prescribed by the state tax assessor under the provisions of this title, or causes or procures to be falsely or fraudulently made, forged, altered or counterfeited any such stamp, or knowingly and wilfully utters, publishes, passes or tenders as true, any such false, altered, forged or counterfeited stamp, or uses more than once any stamp provided for and required by this title for the purpose of evading the tax hereby imposed shall be punished by imprisonment for a term of not less than 1 year nor more than 10 years.



**Sec. 15. Penalty for failure to display license.** Whoever, being engaged in the business of selling any manufactured tobacco products enumerated in section 1 of this title, fails to post and keep constantly displayed in a conspicuous place at the place where such business is carried on, a license issued by the state tax assessor, shall be punished by a fine of not less than \$100 nor more than \$300 for the first offense and for each subsequent offense shall be punished by a fine of not less than \$300 nor more than \$500.

**Sec. 16. Penalty for other violations.** Whoever violates any of the provisions of sections 4 and 8 of this title, or any of the other provisions of this title or any lawful rule or regulation promulgated by the state tax assessor under authority of this title, for the violation of which no penalty is provided by law, shall be punished by a fine of not less than \$25 nor more than \$100.

**Sec. 17. State tax assessor may remit penalty.** The state tax assessor upon good cause shown, may at his discretion remit the penalty or penalties, or any part thereof, prescribed under any section of this title.

**Sec. 18. Assistant in state tax assessor's office; compensation.** The state tax assessor is hereby authorized to appoint a deputy whose duty it shall be to administer and enforce the provisions of this title, including the collection of all stamp taxes provided for herein. In such enforcement the state tax assessor may call to his aid the attorney general, any county attorney, or any peace officer of the state. The state tax assessor is further authorized to appoint such clerks or additional help as may be needed to carry out the provisions of this title. The compensation of all persons employed hereunder shall be approved by the governor and council and shall be paid from the revenues derived under the provisions of this title.

**Sec. 19. Disposition of proceeds.** The proceeds of revenues and fines collected under the provisions of this title shall be paid to the state tax assessor and credited to the tobacco tax fund. The state tax assessor shall remit to the treasurer of state all such revenues and fines under such rules and regulations as may be made by the state controller. After the deduction of the costs of administration of this title the balance shall be credited by the treasurer of state to the old age pension fund to be expended for the payment of old age pensions.

**TITLE II****Tax on Cosmetics**

**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 title.

**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 title. 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 title. 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 title, 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 title.

**Sec. 3. Definitions.** As used in this title: "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 title. 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 title 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 title 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 title 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 title, and to prepare and print such blanks, forms, reports, receipts and any and all other things which may be necessary to carry out the pro-

visions of this title, and to prepare and print such blanks, forms, reports, receipts and any and all other things to provide for the administration of this title, and to pay any and all such expenses so incurred out of the fund collected under the provisions of this title. 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 title and to be used by the bureau of taxation in defraying the expenses which may be incurred in administering and preparing to administer this title 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 title 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 title 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 title are sold or prevents or hinders the full inspection of invoices, books, records or papers required to be kept under the provisions of this title, 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 title 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.

### TITLE III

#### Amusement Tax

**Sec. 1. Definitions as used in this title.** "Amusement" shall mean and include all manner and forms of entertainment and amusement, theaters, opera houses, motion picture shows, vaudeville, amusement parks, athletic contests, including wrestling matches, prize fights, boxing exhibitions, football and baseball games, skating rinks, race tracks, golf courses, public bathing places, public dance halls of every kind and description and all forms of diversion, sport, recreation, shows, exhibitions, contests, displays,

games, or any other and all methods of obtaining admission charges, donations, contributions or monetary charges of any character, from the general public or a limited or selected number thereof, directly or indirectly in return for other than tangible property or specific personal or professional services.

**Sec. 2. Imposition of tax.** There is hereby imposed, levied and assessed to be collected and paid as hereinafter provided a privilege license tax of 1 cent for each 10 cents or fractional part thereof received as admission to any amusement as hereinbefore defined, upon every person conducting such amusement or place where such amusement is conducted, whether such amusement is held or conducted in a public or private building, hotel, tent, pavilion, lot or resort enclosed or in the open; and the tax shall be imposed upon each such admission charged, donation or contribution except as herein otherwise provided.

**Sec. 3. Permit required.** Any person conducting any form of amusement, as hereinbefore defined, admission to which or the conduct of which requires the payment of a tax imposed by the preceding section, shall, before beginning the operation of any place or form of such amusement, make application in writing to the state tax assessor for a permit to conduct such amusement, such application to be made upon forms prescribed and furnished by said state tax assessor, and to contain all such information as may be required by him in each particular case.

**Sec. 4. Granting a permit.** Upon the filing of such application, the state tax assessor may issue to the applicant, without cost to the applicant, a permit to conduct a permanent place of amusement, if not prohibited by law, or to conduct a temporary place of amusement upon such reasonable terms and conditions as the state tax assessor may impose; the permit to be good until the 1st day of July succeeding the date of issuance, if issued for a permanent place of amusement, if not sooner revoked for reasons as hereinafter provided; but permits for the conducting of temporary places of amusement to be good only for the time and place specified therein, and to be granted only upon such reasonable terms and conditions as the state tax assessor may prescribe in each instance. The permit shall be displayed at all times in a conspicuous manner at the place where such amusement is conducted and for the time specified therein.

**Sec. 5. Joint liability for tax.** Where permits are obtained for conducting temporary amusements, by persons who are not the owners, lessees or custodians of the buildings, lots or places where the amusements are to be conducted, or where such temporary amusement is permitted by the owner,

lessee or custodian of any place, to be conducted without the procurement of a permit as hereinbefore required, the tax imposed by this title shall be paid by the owner, lessee or custodian of such place where such temporary amusement is held or conducted, unless paid by the person conducting the amusement, and the applicant for such temporary permit shall furnish with the application therefor, the name and address of the owner, lessee or custodian of the premises upon which such amusement is to be conducted, and such owner, lessee or custodian shall be notified by the state tax assessor of the issuance of such permit, and of the joint liability for such tax.

**Sec. 6. Separate permit required.** A separate permit shall be required for each place where amusements are to be conducted, and where any person intends to engage in the business of conducting an itinerant form of amusement in this state, in making application for permits to conduct such amusements at different places in this state, full and complete information shall be furnished to the state tax assessor, with such application, as to places where such amusements are to be conducted, with the date and length of time to continue at each place, and in the event of any change in the original contemplated itinerary, either as to date or time of conduct at each place, the state tax assessor shall immediately be notified of such change, by the holder of the permit.

**Sec. 7. Permit not transferable.** No permit shall be used or transferred by or to any other person than the one to whom it was issued, and upon the retirement from the conduct of any amusement of any person to whom a permit has been issued, such permit shall ipso facto become null and void.

**Sec. 8. Penalty for operation without permit.** Any person who shall operate a place of amusement or conduct an entertainment for which a permit is required before having first obtained the permit herein required and posted the same in accordance with the above provisions, shall be guilty of a misdemeanor. However, any person may operate a place of amusement for a period of 10 days, after requiring the same, with immunity from the above provisions, providing at the time of such acquisition or immediately thereafter, he has made application for the permit required.

**Sec. 9. Form of tickets prescribed.** The state tax assessor shall prescribe the form of tickets to be used by all places where amusements are to be conducted subject to the tax herein imposed, wherever practicable, and said tickets shall be in such form that the tax due to this state may be readily computed. Each ticket shall show upon its face the sale price thereof and the amount of the tax thereon, and shall be numbered consecutively.

**Sec. 10. Purchase of tickets to be reported and tickets approved.** Any person intending to sell tickets of admission subject to the tax imposed by this title, shall, immediately after purchase of and prior to the use or sale thereof, submit to the state tax assessor a duplicate invoice of such tickets fully describing said tickets, and attach to said invoice a specimen or facsimile thereof. And any person using or selling any tickets of admission without first having submitted said invoice and description thereof to the state tax assessor as herein provided, shall be subject to all the penalties hereinafter imposed for use of improper tickets.

**Sec. 11. Sale of tickets reported.** Every person conducting a place of amusement where tickets are sold subject to the tax herein imposed, shall file a monthly report with the state tax assessor, on or before the 10th day of each month, showing the number of tickets sold during the preceding month, giving the serial number of the 1st and last ticket included in said report, and the value thereof. The state tax assessor shall keep a record in his office of the tickets reported as obtained for use, and of the tickets reported as sold by numbers as reported by the person conducting the place of amusement, at the beginning and end of each month.

**Sec. 12. Additional information required.** The state tax assessor is hereby empowered to require such additional information and reports, and to require every person operating a place of amusement subject to tax under the provisions of this title to keep such records, as will fully disclose the amount of tax levied and imposed under the provisions hereof.

**Sec. 13. Season tickets to be approved and reported.** In cases where season ticket or tickets are sold, such tickets shall be in the form prescribed by the state tax assessor, and the approval thereof by the state tax assessor shall be obtained before such tickets are sold; and every such ticket shall be numbered consecutively and a report thereof made as hereinabove provided, which report shall show the total number of such tickets issued or printed and the number sold, and all such tickets shall have printed thereon the price for which they are sold and the amount of tax due thereon.

**Sec. 14. Operator may collect tax.** The operator of any place of amusement in this state may collect the tax imposed by section 2 of this act, in addition to the price charged for admission to any place of amusement, but under all circumstances the person conducting the amusement shall be liable for, and pay the tax imposed, regardless of the price at which any ticket may be sold, or given away, the tax to be based upon the customary charge for such admission; and where free passes are issued,



the same shall be numbered and identified in such a way as to readily determine the amount of tax due on account thereof.

**Sec. 15. Operator not to loan tickets.** No operator of a place of amusement shall sell, loan or provide admission tickets to any other operator of a place of amusement or for any other place of amusement if operated by him except upon the written consent of the state tax assessor granted upon his application therefor.

**Sec. 16. Collection of tickets.** As each patron is admitted to a place of amusement his ticket shall be collected and immediately torn in 2 parts, approximately through the center, the  $\frac{1}{2}$  given to the patron, and the other  $\frac{1}{2}$  retained by the ticket taker; and when season tickets or tickets issued for 2 or more performances, are used, the ticket taker shall punch or mark the tickets in such a way as to indicate the performance for which it is used and may return same to the holder.

**Sec. 17. Penalty for using tickets not authorized.** If any person conducting a place of amusement for which a tax is imposed by this title, shall use tickets of any form other than prescribed by the state tax assessor, and which have not been reported to said state tax assessor before use, by filing duplicate invoice of purchase, or shall fail to make report of tickets sold and pay the tax thereon, when due, or make a false statement or incorrect invoice, or shall refuse the state tax assessor or his authorized agent or representative permission to inspect his books and records for the purpose of determining the amount of tax due, there shall be added to the amount of tax, due, as a penalty for the violation of the provisions of this title, 100% of the amount of such tax, which shall immediately be due and payable, and in addition thereto, such person shall be guilty of a misdemeanor and punishable therefor, as well as liable for the tax and 100% penalty.

**Sec. 18. Revocation of permit; notice; appeal.** In addition to the other penalties provided by this title, the state tax assessor may revoke the permit of any person failing to comply with any and all of the requirements of this title, or any rule or regulation promulgated hereunder. When any permit is revoked, the state tax assessor shall send by registered mail to the person holding same, formal written notice of such revocation, and such person shall have the right at any time within 10 days from the date of mailing of such notice, to appeal to the state tax assessor praying for a review and revision of such revocation upon such grounds as the taxpayer may deem proper to base such appeal; and upon the filing of such appeal, the state tax assessor shall promptly fix a date

for the hearing thereof, as soon as practicable, and shall notify all parties in writing of the time and place of such hearing. If upon such hearing the state tax assessor shall decline to rescind its act of revocation of the permit, the person aggrieved may, within 10 days of the date of such hearing appeal to the circuit court of the county where such place of amusement was conducted; such appeal shall be taken in the form of objections and exceptions to the order of the state tax assessor, which shall be accompanied by the records of the state tax assessor, and a transcript of the testimony before said state tax assessor, in the case, which shall constitute the record in the circuit court. The appeal shall be granted by the state tax assessor upon the filing of a bond by the appellant, with sufficient sureties in a penal sum sufficient to cover all taxes and penalties in arrear, and all taxes to accrue pending a final hearing, and all costs; and the circuit judge shall hear the appeal in vacation on written demand of the party appealing, after the said party shall have given 5 days' notice in writing to all parties concerned.

**Sec. 19. Penalty for re-use of tickets.** Any person who alters, restores, or otherwise prepares in any manner whatsoever, any admission tickets with intent to use or cause to be used by any person at a place of amusement or in the conduct of an amusement liable to taxes under this title; after such ticket has already been so used, or knowingly or wilfully buys, sells, offers for sale, or gives away any such restored or altered ticket, to any person for use, or knowingly uses the same, or has in his or its possession any altered or restored ticket which has been previously used for the purpose for which it was originally intended; or any person who prepares, buys, sells, offers for sale, or has in his possession any counterfeit ticket, or ticket other than that reported to the tax assessor as required by section 10 hereof, shall be guilty of a felony, and upon conviction, shall be punished by a fine of not more than \$1000, or by imprisonment for not more than 5 years, or by both such fine and imprisonment, in the discretion of the court.

**Sec. 20. Time for reporting and payment of tax.** The tax imposed upon persons conducting permanent places of amusement and entertainment shall be due and payable monthly, between the 1st and 10th day of the month immediately succeeding the monthly period during which taxes have accrued, and persons liable for such tax shall, between the 1st and 10th day of each succeeding month make a true and correct return to the tax assessor, in such form as said tax assessor may prescribe, showing the number of and prices of admission sold, and the donations and contributions received during the preceding month, and remit with said return the

tax due. Persons conducting temporary or itinerant amusements or entertainments, shall report promptly and make remittance of all taxes due, immediately after each performance or entertainment, where only one performance or entertainment is conducted at one place in one day; and in the event that more than one performance or entertainment is conducted at one place in one day, the report and remittance shall be made at the conclusion of the last performance conducted on such day. Where performances or entertainments are conducted at the same place for a period of more than one day, but less than 30 days, the report and payment of taxes shall be made immediately after the termination of such period; and in case of failure of any person to make a true and correct report and remittance in accordance with the provisions hereinbefore contained, the state tax assessor may make the same upon the best information obtainable, and assess the tax thereon, and add a penalty of 10% and notify the taxpayer in such manner as he may deem proper under the circumstances.

**Sec. 21. Right of state tax assessor to make personal demand.** In case of a person conducting other than a permanent place of amusement or entertainment, the tax assessor may, through his duly appointed and qualified agent or representative, make personal demand upon the taxpayer liable for such taxes, and require a report and payment thereof immediately upon the termination of any performance or entertainment, after which the tax shall become due under the provisions of this section, and upon failure of such taxpayer to make a proper report and pay the taxes due, such agent or representative may proceed in attachment against such taxpayer, and the failure or refusal of such taxpayer to make report and pay the tax upon demand, shall be deemed sufficient ground for such attachment and seizure of any property of the taxpayer available.

**Sec. 22. State tax assessor to make return for delinquent.** In case of a person conducting a permanent place of amusement or entertainment, who shall fail to make a proper return and pay the tax when due, the tax assessor may notify such taxpayer by mail of the fact that a return has been made, and a penalty of 10% of the tax imposed. If the tax and penalty be not paid within 10 days from the date of mailing of such notice, the tax assessor may proceed to collect said taxes and penalties through the proper officers, as other privilege taxes are collected, and said taxes and penalties shall be deemed a debt due to this state and collectible as such.

**Sec. 23. Errors corrected by tax assessor.** That the tax assessor shall correct errors in returns, refund or re-assess where errors occur, and upon notice from the tax assessor the taxpayer shall pay the re-assessment within 10 days, and if not then paid the tax assessor shall declare the tax due,

add a penalty of 10% to the amount assessed, give notice of same and if such tax and penalty is not paid to the tax assessor on or before the 10th day after mailing such notice, the tax assessor shall proceed to collect the same as provided in the preceding section hereof. The taxpayer shall have the right of appeal from such assessment as in cases of revocation of permit.

**Sec. 24. Bond required of delinquent taxpayers.** If any taxes or penalties imposed by this title shall remain due and unpaid for a period of 10 days, after notification by the state tax assessor of delinquency, and assessment of penalty, the person responsible for the payment of such taxes and penalties, either or both, shall as a condition for the privilege of further operating such place of amusement, or any other place of amusement, pay such delinquent taxes and penalties thereon and be required to furnish a good and sufficient bond to be executed by a surety company authorized to do business in this state, in a sufficient amount to insure payment of all future taxes, the amount of which bond shall be determined by the tax assessor. Said bond shall be conditioned, for the payment of all taxes and penalties that may be lawfully assessed against the taxpayer, and shall continue in force so long as such taxpayer shall operate his place or places of amusement, and in case such taxpayer shall operate more than one place of amusement, the bond shall be given in sufficient amount to insure the payment of future taxes and penalties for the privileges of operating all of said places of amusement; and said bond may be decreased if such should be found by the tax assessor to be unreasonable, and said assessor may require additional bond or bonds if for any reason a bond should be forfeited or become insufficient to secure the payment of the tax and penalties.

**Sec. 25. Tax assessor may restrain operation without permit.** Should any person attempt to operate a place of amusement without obtaining a permit, or continue the operation or conduct of any place of amusement or entertainment, after forfeiting the right to so continue, as provided herein, without complying with the provisions of section 24 as to payment of delinquent taxes and penalties, and execution of the bond required, then the tax assessor may restrain such person from the conduct of such place of amusement or entertainment, by applying to the proper court having jurisdiction of the person or place of amusement or entertainment for a restraining order to prohibit the continuance of such place, or the conduct of such amusement or entertainment, until the terms of this title are fully complied with.

**Sec. 26. Exemptions.** No tax shall be levied or collected upon any admissions charged at any place of amusement operated solely for the ben-

efit of any religious, or charitable organization where the proceeds of such admissions do not inure to any one or more individuals; nor shall such tax apply to admissions charged at any athletic games or contests between high schools or grammar schools; nor to admissions to county, state or community fairs, or entertainments presented in community homes or houses which are publicly owned and controlled and the proceeds of which do not inure to any individual or individuals. The exemptions allowed in this section shall not apply to athletic games or contests between universities or colleges, nor to amusements in which professional performers or promoters are employed, or compensated out of the proceeds of such admissions received.

**Sec. 27. Fraudulent returns.** Any person who shall, knowingly submit any false or fraudulent return or statement of admissions required under this title shall be guilty of a misdemeanor.

**Sec. 28. State tax assessor to administer.** The administration of this title is hereby vested in the state tax assessor, who shall from time to time promulgate such reasonable rules and regulations not inconsistent with the provisions of this title for making returns and for the ascertainment, assessment and collection of the taxes imposed hereunder, and in the enforcement of this title the said tax assessor may act through and by his duly authorized agents.

## TITLE IV

### Tax on Soft Drinks

**Sec. 1. Definitions.** (a) The term "dealer" shall include every person, firm, corporation or association of persons who manufactures any bottled soft drinks or soft drink syrup as herein defined for distribution, sale, use, or consumption in the state of Maine.

The term "dealer" is further defined to mean any person, firm, corporation or association of persons who imports any bottled soft drinks or soft drink syrup as herein defined from any state or foreign country for distribution, sale, use or consumption in the state of Maine.

(b) The term "wholesale dealer" as used herein shall include only those dealers who shall sell any bottled soft drinks or soft drink syrup as herein defined to licensed retail dealers for the purpose of resale.

(c) The phrase "retail dealer" as used herein shall include every dealer other than a "wholesale dealer" as defined above, who shall sell or offer for sale said taxable articles irrespective of quantity or amount or the number of sales.

(d) The term "dealer" is further defined to mean any person, firm, corporation or association of persons who sells, offers for sale, or has in his possession for sale, use, consumption or distribution, any bottled soft drinks or soft drink syrup as herein defined who cannot prove that the tax levied by this title has been previously paid on the said bottled soft drinks or soft drink syrup as herein defined, or that the payment of said tax has been guaranteed by bond which has been furnished and accepted.

(e) The term "assessor" as used in this title shall mean the state tax assessor or his duly authorized assistants.

(f) The phrase "retail selling price" as used herein shall mean the ordinary, customary or usual price paid by the consumer for each taxable article sold at retail before the tax levied by this title has been paid.

(g) "Syrup or syrups" shall be defined as being the compound mixture or basic ingredient used in the making, mixing or compounding of soft drinks at soda fountains by the mixing with same of carbonated or plain water, ice, fruit, milk or any other product suitable to make a soft drink, among such syrups being such products as coca-cola syrup, chero-cola syrup, lemon syrup, vanilla syrup, cherry smash syrup, rock candy syrup, simple syrup, nu-grape syrup, Dr. Pepper syrup, or all prepared syrups sold or used for the purpose of mixing soft drinks at soda fountains.

Simple syrup is further defined to mean any syrup made, mixed, compounded or manufactured by dissolving sugar and water or any other mixture that will create what is commonly referred to as "simple syrup" for use at soda fountains.

(h) The term "stamp" as herein used shall mean the stamp or stamps by the use of which the tax levied hereunder is paid.

(i) The term "crown" as herein used shall mean the crown or crowns by the use of which the tax levied hereunder is paid.

(j) Bottled soft drinks as referred to in this title, shall include any and all beverages whether carbonated or not, such as soda water, ginger ale, nu-grape, coca-cola, lime-cola, pepsicola, Dr. Pepper, fruit juice, milk drinks when any flavoring or syrup is added, cider, cordial, bottled carbonated water, or any and all bottled preparations commonly referred to as soft drinks of whatsoever kind and description. Soft drinks are further defined to include any and all beverages commonly referred to as soft drinks which are manufactured without the use of any syrup. Provided that the provisions of this title shall not apply to unadulterated fruit juices in original state used in hospitals.

**Sec. 2. Levying tax on bottled soft drinks and soft drink syrup.** There is hereby levied a tax upon the sale, use, consumption, handling or distribution of all bottled soft drinks as herein defined and all soft drink syrup within the state of Maine, as follows:

(a) On bottled soft drinks a tax of  $\frac{1}{4}c$  on each 5c or fractional part thereof of the retail selling price thereof.

(b) On syrups a tax of 20c per gallon and a like or proportionate rate on more or less than a gallon.

No stamp or crown evidencing the tax herein levied shall be of a denomination less than  $\frac{1}{4}c$ .

**Sec. 3. Stamps to be furnished by assessor to be affixed by dealer.** That in order to enforce the collection of said tax hereby levied, the assessor is authorized and required to design and have printed stamps of such size and denominations as may be determined by the assessor, so manufactured as to render said stamps easy to be glued and attached to containers of taxable articles subject to tax according to this title; that said stamps shall be affixed by the dealer on the smallest containers that will be handled, sold, used, consumed or distributed to the consumer, to permit the said assessor to readily ascertain by an inspection of any dealer's stock on hand whether or not said tax has been paid as provided in this title.

Stamps required to be affixed by the provisions of this title shall be fixed in such manner that their removal will require continued application of steam or water and shall be cancelled by placing thereon the permit number of said dealer.

All soft drink tax stamps shall be purchased from and sold by the assessor. Any person, firm, corporation, or association of persons other than the assessor who sells soft drink tax stamps, not affixed to taxable articles, whether the said stamps be genuine or counterfeit, shall be guilty of a felony and punishable as set out in section 9 of this title.

In order to further enforce the collection of said tax hereby levied the assessor is hereby empowered and directed to authorize the manufacture of Maine soft drink tax crowns, and to promulgate rules and regulations governing the purchase, sale and distribution of Maine soft drink tax crowns, with which to seal said bottled soft drinks. Said crowns shall carry a design approved by the assessor, the use of which crowns shall be evidence of the payment of taxes provided for in this title. Manufacturers or distributors of crowns shall be required to furnish bond satisfactory to the assessor to insure faithful compliance with such regulations, and meet all requirements as set forth by the assessor. All purchasers of crowns shall be required to purchase crowns in accordance with rules and regula-

tions promulgated by the assessor. The price to be paid by purchasers of crowns shall be the manufacturers' price, plus all transportation charges to consignee at destination, and in addition thereto, shall be  $\frac{1}{4}$ c per crown, when to be used upon bottled drinks retailing for 5c each or less;  $\frac{1}{2}$ c per crown when to be used upon bottled drinks retailing for more than 5c each but not more than 10c each,  $\frac{3}{4}$ c per crown when to be used upon bottled drinks retailing for more than 10c each, but not more than 15c each, so that the tax will equal  $\frac{1}{4}$ c for each 5c or fractional part thereof of the retail selling price so as to comply with the soft drink license tax herein required.

Provided, further, that said stamps and crowns, which are provided for in this title, shall be supplied by the assessor to all licensed soft drink dealers in the state of Maine at a discount of 5% from the tax value, when purchased in quantities of not less than \$100 face value; that said stamps or crowns may be supplied by said assessor in any less quantity at face value to any and all persons, firms, corporations, and association of persons, whether they may or may not be dealers in said products subject to tax in this title.

That all crowns shall be purchased through and upon order approved by the assessor. Any person, firm, corporation or association of persons who sells or purchases crowns or otherwise handles soft drink tax crowns except as above provided, whether the crowns be genuine or counterfeit, shall be guilty of a felony and punishable as set out in section 9 of this title.

**Sec. 4. Intention of title.** It is the intent and purpose of this title to require all manufacturers and dealers in bottled soft drinks to affix either soft drink tax stamps or soft drink tax crowns to each individual bottle of soft drinks sold, used, consumed, handled or distributed, and when the said stamps or crowns are so affixed they shall be evidence of the payment of the tax provided herein. That in the event the manufacturers of bottled drinks either within or without the state of Maine shall use the soft drink tax crown as herein provided for, then and in such event, said manufacturer shall be relieved of the duty of stamping each individual bottle.

It is further the intent and purpose of this title that evidence of the payment of the tax herein levied on all bottled soft drinks that are manufactured in this state to be sold for not more than 10c per bottle shall be by the use of soft drink tax crowns, as provided in this title, and this provision is hereby made obligatory and compulsory on all manufacturers in this state who may engage in the manufacture, sale, consignment, handling or distribution of the said bottled soft drinks that are manufactured in this state.



It is further the intent and purpose of this title that milk drinks sold direct to school children on school premises, or sold through a school organization to school children on school premises, shall be exempt from the tax levied by this title.

It is the intent and purpose of this title to levy an excise tax on all bottled soft drinks and syrup, as defined in this title, when sold, used, consumed, handled or distributed in this state and to collect same from the dealer who first distributes, sells, uses, consumes or handles the same in the state of Maine.

It is further the intent and purpose of this title that where a dealer gives away bottled soft drinks or syrup for advertising or any other purpose whatsoever the same shall be taxed in the same manner as if it were sold, used, consumed, handled or distributed in this state.

**Sec. 5. Permits for dealers issued by assessor.** Every person, firm, corporation or association of persons in this state who sells or is about to engage in the business of either a retail dealer or wholesale dealer in any or all of the article or articles taxed hereunder shall first apply to and obtain from the assessor a permit or permits to engage in the business of wholesale dealer or retail dealer, as the case may be, and shall obtain a separate permit for each place of business of such dealer; and shall pay to the assessor a fee of \$5 for each permit. "Place of business" as used in this section is construed to include the place where orders are received, or where articles taxed under this title are sold, or if sold upon a railroad train or on or from any other vehicle, the vehicle on which or from which such taxable articles are sold shall constitute a place of business.

Applications for permits must be subscribed and sworn to by the person owning the business or having an ownership interest therein. If the applicant is a corporation, a duly authorized agent shall execute the application. The application shall be made on blanks to be provided and furnished by the assessor, and shall, in addition to such other information as the said assessor may require, show the name of such dealer, and in case of partnerships the name of each partner thereof, the dealer's post office address, whether the application is for a permit as a wholesale dealer or as a retail dealer and a statement giving the location of the place of business as to which the permit shall apply; and in case of retail dealers the nature of any businesses, (such as drug store, hotel, general store, etc.), carried on at the same place. Permits shall expire with the current year in which they are issued, but may be renewed on like application. If the business changes hands during the period the permit runs, a new permit must be applied for and paid for. Should the place of business be changed during the period the permits run, the permit must be sent to the assessor so

that proper change may be noted thereon. A permit cannot be transferred from one dealer to another. The permit shall at all times be publicly displayed by the dealer in his place of business so as to be easily seen by the public. Permits may be refused to any dealer previously convicted for having been involved in any violation of this title.

The assessor, after notice and opportunity to be heard, under regulations to be made by him, shall have jurisdiction, power and authority to revoke the permits of any wholesale dealer or any retail dealer for violation of this law, or for wilful or persistent violation of regulations made under this law. No new permit shall be issued to any one whose permit has been revoked, except in the discretion of the assessor.

**Sec. 6. Duty of wholesale dealer to affix stamps and crowns; bond; records; reports.** Every wholesale dealer in this state shall immediately after receipt of any unstamped syrup or any bottled soft drinks, unless sooner offered for sale, cause the same to have the requisite denominations and amount of stamp or stamps to represent the tax affixed as stated herein, and to cause same to be cancelled by writing or stamping across the face of each stamp the permit number of such wholesale dealer. The stamping of said unstamped syrup or bottled soft drinks shall actually begin within 1 hour after receipt of syrup or bottled soft drinks in the premises of the wholesale dealer, and said stamping shall be continued with reasonable diligence by the wholesale dealer until all of the unstamped taxable articles have been stamped and the stamps cancelled as provided by law. Provided that each and every wholesale dealer in syrup and bottled soft drinks in this state is required to furnish to the assessor, who is charged with the duty of collecting the tax levied by this title, a bond in the minimum amount of \$1000, guaranteeing the payment of all taxes and penalties levied by this title, said bond to be executed by a surety company duly qualified to do business in this state. That the tenor, solvency and maximum amount of said bond shall be satisfactory to the assessor, the maximum amount of said bond to depend upon the volume of business of the said wholesale dealer and must be in an amount sufficient in the discretion of the assessor to guarantee the state against any and all losses for taxes and penalties levied by the provisions of this title.

Each bond submitted to the assessor must be accompanied by a power of attorney of the agent executing said bond for said surety company, together with a certificate which evidences the fact that the power of attorney was in force and effect as of the date the bond was executed.

The assessor is empowered and authorized to promulgate rules and regu-

lations pertaining to the replacement of the tax paid on taxable articles shipped beyond the borders of the state.

Every wholesale dealer shall at the time of shipping or delivering any articles taxable under this title make a true duplicate invoice of the same which shall show full and complete details of the sale or delivery of the taxable article, and said dealer shall retain the same subject to the use and inspection of the assessor for a period of 2 years. Wholesale dealers shall also keep a record of purchases of all articles taxable under this title purchased by them, and hold all books, records and memoranda pertaining to the purchase and sale of such articles open to the inspection of the assessor for a period of 2 years.

Every wholesale dealer shall furnish to the assessor a semi-monthly report on the 1st and 15th of each respective calendar month of all orders for articles taxable under this title purchased through said wholesale dealer from without this state on a drop shipment and consigned direct to the person, firm, corporation or association of persons ordering such taxable articles from without this state through such wholesale dealer.

After and upon examination of invoices of the dealer, as defined in this title, should the assessor find that any of the taxable articles have been sold, used, consumed, handled or distributed without stamps or tax crowns affixed, as the case may be, required in this title, he shall have the power to require such person, firm, corporation or association of persons to pay into the state treasury through him a sum equal to not less than twice the amount of the tax due. If upon examination of invoices the dealer, as defined in this title, is unable to furnish evidence to the assessor of sufficient stamp or tax crown purchases to cover unstamped taxable articles purchased by him, the prima facie presumption shall arise that such taxable articles were sold, used, consumed, handled or distributed without the proper stamps or tax crowns affixed thereto. The refusal or failure to comply with these provisions shall be deemed a misdemeanor and punishable as set out in section 10 of this title.

Provided, further, that the assessor may promulgate rules and regulations setting forth the manner and method for the cancellation of tax stamps.

**Sec. 7. Duty of retail dealer to affix stamps.** Every retail dealer shall, except syrup and soft drinks on which the tax has been paid by the proper affixing of crowns and stamps and the cancellation of stamp or stamps by a wholesale dealer, as provided for herein, affix the stamp or stamps for the denominations and amount necessary to represent the tax on each individual article and cancel the same by stamping his permit number across the face of each stamp, in the manner required by this title, the same to

be done, in all cases, immediately upon receipt by the retail dealer of the unstamped taxable articles.

If and whenever any of the articles taxed in this title are found in the possession of any retail dealer or any other person, firm, corporation or association of persons, without the stamps affixed and cancelled, except as may be provided by rules and regulations, the prima facie presumption shall be that such articles are kept in violation of the provisions of this title. Retail dealers shall keep a record of purchases of all syrups and bottled soft drinks purchased by them and all simple syrup made, compounded or manufactured by him, and shall hold all books, records and memoranda pertaining to purchase, sale or manufacture of such taxable articles open to the inspection of the assessor or his duly authorized agents, for a period of 2 years.

Every retail dealer in taxable articles as set out in this title purchasing or receiving any taxable articles from without the state, whether the same shall have been ordered through a wholesale dealer or jobber within this state or by drop shipment, or otherwise, shall within 24 hours after receipt of same, mail a duplicate invoice of all such purchases, or receipts to the assessor. Failure to furnish such duplicate invoice as required shall be deemed a misdemeanor and punishable as set out in section 10 of this act.

**Sec. 8. Duty of assessor, to collect tax; powers and authority.** It is hereby made the duty of the assessor to collect, supervise and enforce the collection of all taxes and penalties that may be due under the provisions of this title, and to that end the said assessor is hereby vested with all the power and authority conferred by this title.

The assessor is further authorized and empowered to promulgate rules and regulations to provide for the collection of the amount of tax due on all bottled soft drinks and syrup taxable under the provisions of this title in possession of dealers, on the effective date of this title, so as to prevent any bottled soft drinks and syrup being sold within this state, without the tax herein provided for being paid.

The assessor may promulgate rules and regulations providing for the replacement to dealer for the cost of stamps and the amount of tax paid on soft drink tax crowns affixed to goods which, by reason of damage, become unfit for sale and are destroyed by dealer or returned to manufacturer or jobber. The replacement herein referred to shall be made only on a proper showing and authentic proof by the dealer satisfactory to the assessor.

The assessor is further authorized and empowered to promulgate rules and regulations for the refund to dealer for unused tax stamps and tax value of unused tax crowns. Said assessor shall have the power to make

and publish reasonable rules and regulations, not inconsistent with this title or the other laws or the constitution of this state or of the United States, for the enforcement of the provisions of this title and the collection of revenues hereunder.

**Sec. 9. Acts declared to be felony; penalty.** Each of the following acts is hereby declared to be a felony and punishable by imprisonment in the state prison for not less than 1 nor more than 4 years, viz:

(a) To forge or counterfeit any stamp or crown of the kind herein provided for.

(b) To use knowingly and intentionally any such forged or counterfeited stamp or crown.

(c) To have in possession knowingly and intentionally any such forged or counterfeit stamp or crown.

(d) For any person or persons other than the assessor to sell tax stamps or crowns, not affixed to taxable articles, whether the said stamps be genuine or counterfeit, except as is provided for herein.

(e) For any person or persons to purchase from other than the assessor soft drink tax stamps or for any person or persons to purchase, other than through the assessor, soft drink tax crowns not affixed to taxable article whether the stamp or crown be genuine or counterfeit except as provided for herein.

**Sec. 10. Acts declared to be misdemeanor; penalty.** Each of the following acts is declared to be a misdemeanor:

(a) To sell or offer for sale at wholesale or at retail any of the articles herein taxed without first having procured a permit as a wholesale or retail dealer, accordingly as the case may be; provided, nevertheless, that in the case of purchases of stocks in bulk, the purchaser may operate under the permit of the seller for 10 days, pending the application for and the granting of a permit to such buyer, and that in case of the dissolution of a partnership by death, the surviving partner may operate under the permit of the partnership until the time of its expiration, and the heirs, legal representatives of deceased persons and receivers and trustees in bankruptcy appointed by any competent authority may operate under the permit of the person, firm, corporation or association of persons so succeeded in possession by such heir, representative, receiver or trustees in bankruptcy.

(b) To sell, except as a licensed wholesale dealer engaged in interstate commerce as to articles herein taxed sold in interstate commerce any of the articles taxed herein without the stamp or stamps or crowns herein provided for first being affixed and cancelled as herein provided.

(c) To violate any lawful rule and regulation made and published by the assessor hereunder.

(d) To use any stamp or crown more than once, or to have in one's possession tax stamps or crowns that have been used.

(e) To remove, erase, alter or deface the cancellation mark or marks on any stamp; or to have in possession any stamp on which the cancellation mark has been removed, erased, altered or defaced.

(f) To refuse to allow, on demand, the assessor or any officer or agent of the said assessor of this state to make a full inspection of any place of business where any of the articles herein taxed are sold or in any otherwise to hinder or prevent such inspection.

(g) To use any artful device or deceptive practice to conceal any violation of this title or to mislead the said assessor or any agent of said assessor in the enforcement of this title, or to defraud the state of its revenue.

(h) For any person, firm, corporation or association of persons to have in possession any of the articles herein taxed, unless the same shall have the proper stamps or crowns attached.

(i) For any person, firm, corporation or association of persons, or his agents or employees to fail to produce on demand of the said assessor all invoices of all taxable articles bought by him or received within 2 years prior to said demand unless he can show by satisfactory proof that the non-production of said invoices was due to providential or other causes beyond his control.

(j) For any person to make, use or present or exhibit to the assessor or any agent of the said assessor of this state any invoice of taxable articles which bears an untrue date or falsely states the nature or quantity of the goods therein invoiced.

Whoever commits any of the acts set forth in this section shall be punished by a fine of not less than \$25 nor more than \$500, or by imprisonment for not more than 11 months.

All agents, employees, and others who aid, abet or otherwise participate in any wise in the violation of this title or in any of the offenses hereunder punishable shall be guilty and punishable as principals to the same extent as any wholesale dealer or retail dealer violating the title might be.

#### **Sec. 11. Power and authority of assessor to search and seize property.**

The assessor is hereby given the power and authority to search and examine any warehouse, boat, store, storeroom, automobile, truck, conveyance, vehicle or any and all places of storage, or any and all means of transportation, where there is probable cause to believe that the terms of

this title have been or are being violated. Provided, that any automobile, truck, boat, conveyance, vehicle or other means of transportation, other than a common carrier, caught or detected transporting any of the articles taxed by this title, without the tax herein provided for being paid as herein provided, or a bond furnished to guarantee the payment of the said tax, may be seized by the assessor in order to secure the same as evidence in a trial brought under this section.

**Sec. 12. Illegal transportation.** (a) The transportation, carriage, or movement from point to point in this state by any automobile, truck, boat, conveyance, vehicle or other means of transportation of any article or articles on which the tax is levied by this title, upon which article or articles the tax as levied by this title has not been paid, is hereby prohibited, and the said automobile, truck, boat, conveyance, vehicle or other means of transportation so transporting any said article or articles shall be subject to seizure by the assessor and forfeiture and sale in the manner provided for in this section.

(b) The assessor is hereby authorized in a summary proceeding, or by an action against the owner or operator of any automobile, truck, boat, conveyance, vehicle or other means of transportation, other than a common carrier, used in the transportation of any article or articles on which a tax is levied by this title and on which said tax has not been paid in the manner provided in this title, demanding the forfeiture and sale of the said automobile, truck, boat, conveyance, vehicle or other means of transportation used in the said illegal transportation and in violation of this title.

(c) In all cases where it is made to appear by affidavit, that the residence of the owner of the said automobile, truck, boat, conveyance, vehicle or other means of transportation is out of the state, or is unknown to the assessor, the court having jurisdiction of the proceeding shall appoint an attorney at law to represent the said absent owner, against whom the said rule shall be tried contradictorily within 10 days after the filing of the same. The said affidavit may be made by the assessor or one of his assistants or by the attorney representing the assessor, if it be not convenient to obtain the affidavit from the assessor. The attorney so appointed to represent the absent owner may waive service and citation of the petition or rule, but shall not waive time nor any legal defense. If upon the trial of the said proceeding it is established by satisfactory proof that the said automobile, truck, boat, conveyance, vehicle, or other means of transportation has been used to transport any article or articles on which a tax is levied by this title and upon which said tax has not been paid, then the court shall render judgment accordingly, declaring the forfeiture of said

automobile, truck, boat, conveyance, vehicle or other means of transportation, and ordering the sale thereof after 10 days' notice by advertisement in a paper published in a county where the seizure is made by the sheriff of the county in which the seizure herein provided for is made, at public auction at the courthouse to the highest bidder for cash and without appraisal; it being the intent and purpose of these proceedings to afford the owner of said automobile, truck, boat, conveyance, vehicle or other means of transportation a fair opportunity for hearing in a court of competent jurisdiction. It is further the intent and purpose of these proceedings that the forfeiture and sale of the said automobile, truck, boat, conveyance, vehicle or other means of transportation shall be and operate as a penalty for the violation of this title by illegal transportation; and the payment of the tax due on the article upon which a tax is levied by this title at the moment of seizure or thereafter shall not operate to prevent, abate, discontinue, or defeat the said forfeiture and sale of the said property. All funds collected from the said seized and forfeited property shall be paid into the state treasury and credited to the general fund in the same manner as provided for the tax herein levied. The court shall fix the fee of the attorney representing the owner when appointed by the court, at a nominal sum not to exceed 10%, to be taxed as costs and to be paid out of the proceeds of the sale of said property.

**Sec. 13. Invoice to show date of purchase, etc.** All purchases of taxable articles by any retail dealer shall be evidenced by an invoice from the seller correctly showing the date of the purchase and the quantity of each of said articles bought by said retail dealer.

**Sec. 14. Violation of title.** It shall be unlawful for any person, firm, corporation or association of persons to receive in this state any shipment of taxable articles when the same are not stamped, for the purpose and intention of violating the provisions of this title and to avoid payment of the taxes, and such person, firm, corporation or association of persons shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as set out in section 10 of this title.

**Sec. 15. Penalty for failure to affix stamps.** Any dealer, required by this title to affix the stamps and crowns, as provided, who shall fail to properly affix or cancel the stamps within the time limit prescribed by law, shall in addition to the taxable articles being subject to seizure, be required to pay as a part of the tax imposed hereunder a penalty of not less than \$20 nor more than \$100 to be assessed and collected by the assessor as other taxes levied by this title are collected. Each article or container



not having the proper stamps affixed thereto as herein required, shall be deemed a separate offense. The assessor may compromise in a civil case arising under the provisions of this title and any collections made by him on such compromise shall be handled in the same manner as the collections of tax are handled. When any case is compromised, the assessor shall keep a complete record of the transaction on file in his office.

**Sec. 16. Right of assessor to seize taxable articles.** All taxable articles on which taxes are imposed by this title, which shall be found in possession or custody or within the control of any person, firm, corporation or association of persons, for the purpose of being sold, or removed by him in violation of the provisions of this title, or with the design to avoid payment of said taxes, may be seized by the assessor, or his agent, in order to secure the same for trial, and the same shall be forfeited to the state of Maine. The said assessor or his agent making the seizure shall appraise the value of the same according to his best judgment, and the usual and ordinary retail price of the article seized and shall deliver to the person, firm, corporation or association of persons, if any, found in possession of the same, a receipt showing the fact of seizure, stating from whom seized, the place of seizure, and description of the goods, and appraised value; and a duplicate of said receipt shall be filed in the office of the assessor and shall be open to public inspection.

The proceeding to enforce such forfeiture shall be by rule and shall be in the nature of a proceeding in rem in a court of competent jurisdiction where such seizure is made. The proceeding shall be filed by the assessor or his assistant on behalf of the state of Maine, and the same shall be summary, and it may be tried out of term time and in chambers, and shall always be tried by preference. Whenever the petition for rule shall be sworn to by the assessor, or an assistant, that the facts contained in said petition are true, and accompanied with a duplicate copy of the notice of seizure, the same shall constitute a prima facie case, but may be rebutted by the defendant. The proceeding shall be directed against the owner of the articles seized, demanding the forfeiture and sale of said property, as a penalty for the violation of this title. Service of said proceeding shall be made upon the owner of the seized articles if he is a resident of this state, or his residence is known to the plaintiff in rule. In all cases where it is made to appear by affidavit that the residence of the owner of the seized article is out of the state or is unknown to the assessor or his assistants, an attorney at law shall be appointed by the court, which has jurisdiction of the proceedings, to represent the said owner, against whom the said rule shall be tried contradictorily within 10 days from the date of

the filing of the same. The said affidavit may be made by the assessor, or one of his assistants, or by the attorney, if it be not convenient to obtain the affidavit of the assessor or one of his assistants. The attorney so appointed to represent the owner of the seized articles may waive service and citation of the petition or rule, but he shall not waive time nor any legal defense. Upon the trial of said proceedings if it is established by satisfactory proof that with respect to the articles under seizure that this title has been violated in any respect, then the court shall render judgment accordingly maintaining the seizure, declaring the forfeiture of said seized property, and ordering the sale thereof after 10 days' notice of advertisement at least twice in a daily newspaper published in the county where seizure is made of the taxable articles by the sheriff at public auction; it being the intent and purpose of this proceeding to afford the owner of said seized articles a fair opportunity of hearing in a court of competent jurisdiction. It is further the intent and purpose of this proceeding that the forfeiture and sale of said seized property shall be and operate as a penalty for the violation of this title as aforesaid, and payment of the tax due on said seized articles at the moment of seizure or thereafter, shall not operate to prevent, abate, or discontinue, or defeat the said forfeiture and sale of the said property. The court may fix the fee of the attorney appointed by the court to represent the owner of the seized articles at a nominal sum to be taxed as costs and to be paid out of the proceeds of the sale of said property.

It is further provided that, in cases where in the opinion of the trial judge the value of the seized taxable articles is so small as not to justify the expense of advertising and selling at public auction the seized commodities as hereinabove provided, the court may in any such case, in rendering judgment maintaining the seizure and declaring the forfeiture of the seized property, direct that the seized property be sold by the assessor at private sale without advertisement, but shall direct that the seized property be not thus sold for a price less than a minimum figure to be fixed by the court in its judgment.

**Sec. 17. Right of owner to claim seized property; surety bond.** Any person, firm, corporation or association of persons who claims title to the said seized taxable property or any lien existing thereon prior to the date of seizure, and who did not in any respect participate in the violation of this title, may file with the assessor, under oath, a detailed statement of his claim, and the further fact that the claimant did not in any way participate in the violation of this title, and thereafter the said taxable property may be released by the assessor and delivered to him; provided that the said

claimant shall furnish to the assessor a good and solvent surety bond, in a penal sum not less than double the appraised value of the goods seized, and in no event less than \$50, which said bond shall be conditioned to pay to the assessor of this state the appraised value of the goods, and all costs in the event the claimant does not prosecute his claim to successful judgment. In the event it is not practical to make service upon the claimant to the seized property, or in case the claimant is a non-resident, the proceeding outlined in section 16 of this title may be used in order that the issue may be presented in a court of competent jurisdiction, thereby affording the claimant a fair opportunity to be heard. In the event bond has been furnished by the claimant and the property has been released to him, the judgment of the court if the contention of the assessor is sustained, shall be directed against both the claimant and the surety on the bond together with all costs from the beginning of the seizure up to the final disposition and settlement of the case.

If the claimant does not furnish bond as above provided, then the assessor or his agent may proceed contradictorily against the claimant as set forth in section 16 of this title. In no event shall the property be seized and sold without first affording the claimant a fair opportunity of being heard in a court of competent jurisdiction.

**Sec. 18. Private counsel.** The assessor is hereby authorized to employ private counsel to represent him in any proceeding under this title that he may deem advisable.

**Sec. 19. Waiver of forfeiture proceedings and compromise.** Jurisdiction is hereby conferred upon the assessor to waive any proceedings for the forfeiture of the seized taxable articles or any part thereof in the event he shall find that the violation of the law for which the goods were seized, was unintentional or without intention to defraud the state of its revenue, provided that the offender shall first affix to all of the seized taxable articles twice the amount and value of the stamps necessary to represent the tax, and shall cancel the same. The said assessor may make a compromise with any claimant, before or after the claim is filed in court, and any and all collections made on such compromise shall be handled in the same manner as the collections of the tax are handled. When any case is compromised the assessor shall keep a complete record of the transaction on file in his office.

**Sec. 20. Records to be kept.** (a) Every person, firm, association of persons or corporation engaged in the business of making, mixing or compounding any of the bottled soft drinks enumerated in this title, shall keep

a distinct, legible and permanent record of all extracts, flavorings, sugar syrup and other ingredients, except water, received by him, them or it, that may be useful for making, mixing or compounding soft drinks. That said record shall show the amount or quantity of each of said commodities received, the date of receipt thereof, and the name of the person or corporation from whom the same was secured or received, and the said record shall be open at all times for inspection by the assessor, or any of his duly authorized agents.

(b) Every person, firm, association of persons or corporation engaged in the manufacture, sale or distribution of soft drinks, are hereby required to keep an accurate account of all daily sales, sales slips, bills, invoices, delivery slips, statements, bills of lading, freight bills, credit memoranda, etc., for a period of not less than 2 years from the date shown thereon. All such records shall at any time be open to inspection by the assessor.

(c) Every wholesale dealer is hereby required to file with the assessor, monthly, on or before the 15th day of the month succeeding the period covered by the statement, reports showing the name, location and license number of the wholesale dealer, the amount of syrup in gallons manufactured or imported during the preceding calendar month, the number of soft drinks and the price thereof shipped during the preceding calendar month to any purchasers within the state, together with a schedule showing the name and kind of soft drink, the permit numbers and the names of such customers, their respective places of business and the amount of gallons of syrup or quantity and price of soft drinks involved in such shipments.

It shall be the duty of the assessor to make periodical audits of all soft drink dealers in the state, and whenever it shall appear to the assessor that any such dealer engaged in the storage, handling, use, consumption, sale or distribution of any articles taxed within the meaning of this title, has unlawfully made any untrue or incorrect return when a return is required under the provisions of this title, or has failed to purchase and use the correct amount of stamps or crowns, the assessor shall correct such returns and shall compute the tax called for thereby and shall so certify the same as being the amount actually due and owing; and the assessor shall concurrently notify said dealer of such fact. In the event said dealer does not, within 5 days after such notification, make correct return and pay the full amount due, the assessor shall, in the name of the state, without deposit or advance of costs enter suit against such dealer for the amount due, together with such penalties and attorney's fees as are provided in this title. Such suit shall be by rule, to show cause within 5 days why payment should not be made, and shall be given preference on

the docket, and may be tried out of term time and in chambers. Whenever the assessor certifies to the amount of tax due by any such dealer, such certificate shall be prima facie proof of the amount of taxes due, and the burden of rebutting such prima facie proof shall then be upon the dealer.

**Sec. 21. Collections settled monthly to credit of general funds.** Monies collected under the provisions of this title, less such commissions and discounts which may be allowed as authorized herein, shall be paid to the treasurer of state on or before the 10th day of each month and credited to the general funds.

**Sec. 22. Penalty for violations.** Any person who shall violate any provision of this title, in cases not covered by any other section of this title, shall be guilty of a misdemeanor, and, upon conviction for the first violation, shall be punished by a fine of not less than \$25 nor more than \$100, or by imprisonment for not less than 30 days, nor more than 90 days, or by both such fine and imprisonment, at the discretion of the court; and for the second or any subsequent violation, the penalties fixed by this section shall be doubled.

**Sec. 23. Constitutionality.** If any clause, sentence, paragraph or part of this title shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this title, but shall be confined in its operation to the clause, sentence, paragraph or any part thereof, directly involved in the controversy in which such judgment has been rendered.

**Sec. 24. Repealing clause.** All acts or parts of acts inconsistent herewith are hereby repealed or amended to conform with the provisions hereof.

## TITLE V

### Candy Tax

**Sec. 1. Tax imposed on sales of candy.** There is hereby imposed a tax on the sale of all candy in the state by retailers at the rate of 2% of its sale price.

**Sec. 2. Definitions.** For the purposes of this title "retailer" or "retailers" shall mean the persons, firms or corporations that offer candy for sale to any individuals who are not in the business of reselling candy.

"Candy" shall mean any form of sugar or molasses formed into a confection no matter how colored or flavored or combined, unless the sugar or molasses is merely used for flavoring the larger portion of the confection.

“Sale price” shall mean the price at which the candy is sold unless the amount of the tax is indicated by the sales offer as additional.

“Assessor” shall mean the state tax assessor.

**Sec. 3. Records and payments.** All retailers of candy shall keep a record of their purchases and sales of candy. They shall report to the assessor or his duly authorized agent on the 10th day of each month the amount of their purchases and sales, and shall pay him the tax herein assessed that is due for the preceding month. This tax shall be computed at the rate of 2% on the gross sales of the candy. The assessor shall pay these sums to the treasurer of state for the credit of the general funds.

**Sec. 4. Rules and regulations.** The assessor is hereby empowered and authorized to make such rules and regulations and to employ such assistants as seem necessary to him to carry out the provisions of this title.

**Sec. 5. Penalties.** Whoever violates any of the provisions of this title or any of the rules and regulations promulgated hereunder shall be punished by a fine of not less than \$10 nor more than \$500.

## TITLE VI

### Tax on Jewelry

**Sec. 1. Tax imposed on sales of jewelry.** There is hereby imposed a tax on the sale of all jewelry in the state by retailers at the rate of 2% of its sale price.

**Sec. 2. Definitions.** For the purposes of this title “retailer” or “retailers” shall mean the persons, firms or corporations that offer jewelry for sale to any individuals who are not in the business of reselling jewelry.

“Jewelry” shall mean any ornament to be worn for personal adornment.

“Sale price” shall mean the price at which the jewelry is sold unless the amount of the tax is indicated by the sales offer as additional.

“Assessor” shall mean the state tax assessor.

**Sec. 3. Records and payments.** All retailers of jewelry shall keep a record of their purchases and sales of jewelry. They shall report to the assessor or his duly authorized agent on the 10th day of each month the amount of their purchases and sales, and shall pay him the tax herein assessed that is due for the preceding month. This tax shall be computed at the rate of 2% on the gross sales of the jewelry. The assessor shall pay these sums to the treasurer of state for the credit of the general funds.

**Sec. 4. Rules and regulations.** The assessor is hereby empowered and authorized to make such rules and regulations and to employ such assistants as seem necessary to him to carry out the provisions of this title.

**Sec. 5. Penalties.** Whoever violates any of the provisions of this title or any of the rules and regulations promulgated hereunder shall be punished by a fine of not less than \$10 nor more than \$500.