

# MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

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NINETY - SECOND      LEGISLATURE

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**Legislative Document**

**No. 1251**

House of Representatives, July 22, 1946

Filed with the Clerk of the House at 11:33 A. M. and printed by direction of the Clerk pursuant to unanimous consent agreement and House Rules. To be presented by Mr. Jalbert of Lewiston.

HARVEY R. PEASE, Clerk.

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**STATE OF MAINE**

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-SIX

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House Amendment "I" to H. P. 1528, L. D. 1245, Bill "An Act Providing for the Payment of a Bonus to or Insurance Premiums for Maine Veterans of World War II and for the Payment of Other Veterans' Benefits and to Provide for Such Payments by a Sales Tax."

Amend said Bill by striking out the title thereof and inserting in place thereof the following:

**'AN ACT Providing for the Payment of a Bonus to or Insurance Premiums for Maine Veterans of World War II and for the Payment of Other Veterans' Benefits and to Provide for Such Payments by Miscellaneous Taxes.'**

Further amend said Bill by striking out all of Title VI thereof and inserting in place thereof the following:

**'TITLE VI**

**Cigarette Tax**

**Sec. 1. R. S., c. 14, § 186, amended.** Section 186 of chapter 14 of the revised statutes, as amended by section 1 of chapter 89 of the public laws of 1945, is hereby further amended by adding at the end thereof a new paragraph to read as follows:

**“Unclassified importer” shall mean any person, firm, corporation or association within the state, other than a licensed distributor, subjobber or dealer as defined, who shall import, receive or acquire from without the state, cigarettes for use or consumption within the state.’**

**Sec. 2. R. S., c. 14, § 187, amended.** Section 187 of chapter 14 of the revised statutes is hereby amended to read as follows:

**‘Sec. 187. Dealers, unclassified importers and distributors to be licensed.** Each person engaging in the business of selling cigarettes in this state, including any distributor or dealer, shall secure a license from the tax assessor before engaging in such business. A separate application and license shall be required for each wholesale outlet and for each retail outlet when a person shall own or control more than 1 place of business dealing in cigarettes. Each vending machine shall be considered a retail outlet. Such license shall be issued on forms prescribed by the assessor, and shall contain the name and address of the applicant, the address of the place of business, and such other information as the assessor may require for the proper administration of the provisions of sections 186 to 205, inclusive. Each applicant for a wholesale outlet license shall be accompanied by a fee of \$25 and each such application for a retail outlet license shall be accompanied by a fee of \$1. Each license so issued shall be prominently displayed on the premises covered by the license and in the case of vending machines there shall be attached to the same a disc or marker to be furnished by the assessor showing it to have been licensed. **Each unclassified importer shall, before importing, receiving or acquiring cigarettes from without the state, secure a license from the tax assessor. Each application for an unclassified importer’s license shall be accompanied by a fee of \$25.** Any person who shall sell, offer for sale, or possess with intent to sell any cigarettes, without a license as provided in this section, shall be punished by a fine of not more than \$25 for the 1st offense, and not less than \$25, nor more than \$200, for each subsequent offense. **Any unclassified importer who shall import, receive or acquire from without the state cigarettes for use or consumption within the state without a license as provided in this section shall be punished by a fine of not more than \$25 for the 1st offense, and not less than \$25, nor more than \$200, for each subsequent offense.’**

**Sec. 3. R. S., c. 14, § 188, amended.** Section 188 of chapter 14 of the revised statutes, as amended by section 2 of chapter 89 of the public laws of 1945, is hereby further amended by adding at the end thereof a new paragraph to read as follows:

'Each unclassified importer's license shall expire on the 31st day of July next succeeding the date of issuance unless sooner revoked by the tax assessor. The holder of each unclassified importer's license, on application to the assessor accompanied by the fee prescribed in section 187, may annually before the expiration date of his license renew the license for a further period of 1 year.'

**Sec. 4. R. S., c. 14, § 189, amended.** Section 189 of chapter 14 of the revised statutes is hereby amended to read as follows:

**'Sec. 189. Revocation of license.** The assessor may revoke or suspend the license of any dealer, **unclassified importer** or distributor for failure to comply with any provisions of sections 186 to 205, inclusive, or if the person licensed has ceased to act in the capacity for which the license was issued. Any person aggrieved by such revocation or suspension may apply to the assessor for a hearing as provided in section 201, and may further appeal to the courts as provided in section 202.'

**Sec. 5. R. S., c. 14, § 190, amended.** Section 190 of chapter 14 of the revised statutes is hereby amended to read as follows:

**'Sec. 190. Tax of 2 mills.** A tax is imposed on all cigarettes held in this state by any person for sale, said tax to be at the rate of ~~+ mill~~ **2 mills** for each cigarette, and the payment thereof to be evidenced by the affixing of stamps to the packages containing the cigarettes, as hereinafter provided. Any cigarette on which a tax has been paid, such payment being evidenced by the affixing of such stamp, shall not be subject to a further tax under the provisions of sections 186 to 205, inclusive. Nothing contained in said sections shall be construed to impose a tax on any transaction, the taxation of which by this state is prohibited by the constitution of the United States.

**Each unclassified importer shall, within 24 hours after receipt of any unstamped cigarettes in this state, notify the tax assessor of the number of cigarettes received, and the name and address of consignor. The tax assessor thereupon shall notify the unclassified importer of the amount of the tax due thereon, at the rate of 2 mills per cigarette. Payment of the amount due the state shall be made within 10 days from mailing date of notice thereof.'**

**Sec. 6. R. S., c. 14, § 191, amended.** Section 191 of chapter 14 of the revised statutes is hereby amended to read as follows:

**'Sec. 191. Assessor to provide stamps.** The tax assessor shall secure stamps, of such design and denomination as he shall prescribe, suitable to

be affixed to packages of cigarettes as evidence of the payment of the tax imposed by the provisions of sections 186 to 205, inclusive. He shall sell such stamps to licensed distributors at a discount of ~~7%~~ 3½% of their face value and to licensed dealers at their face value. The face value of the stamps when affixed shall be considered as part of the cost of the merchandise. The assessor may, in his discretion, permit a licensed distributor or licensed dealer to pay for such stamps within 30 days after the date of purchase, provided a bond satisfactory to the assessor in an amount not less than the sale price of such stamps shall have been filed with the assessor conditioned upon payment for such stamps. He shall keep accurate records of all stamps sold to each distributor and dealer and shall pay over all receipts from the sale of stamps to the treasurer of state daily.'

**Sec. 7. R. S., c. 14, § 196, amended.** The 1st sentence of section 196 of chapter 14 of the revised statutes is hereby amended to read as follows:

'Any cigarettes found at any place in this state without stamps affixed thereto as required by sections 186 to 205, inclusive, unless such cigarettes shall be in the possession of a licensed distributor, or unless they shall be in course of transit from without this state and consigned to a licensed distributor or licensed dealer, or unless they shall have been received by a licensed dealer within 72 hours, **or unless they shall have been imported, received or acquired within 24 hours by a licensed unclassified importer who has notified the tax assessor as provided in section 190,** are declared to be contraband goods and are subject to forfeiture to the state; and sheriffs, deputy sheriffs, police officers and duly authorized agents of the said assessor shall have the power to seize the same with or without process.'

**Sec. 8. R. S., c. 14, § 205, amended.** Section 205 of chapter 14 of the revised statutes, as amended by section 30 of chapter 297 of the public laws of 1945, is hereby further amended to read as follows:

'**Sec. 205. Allocation of tax.** The revenue derived from the tax imposed by the provisions of sections 186 to 205, inclusive, shall be credited to the general fund of the state. Provided, however, that there shall always be available for old age assistance state moneys in an amount not less than the revenue derived from ~~the~~ a cigarette tax of 1 mill for each cigarette.'

Further amend said Bill by striking out title VII thereof and inserting in place thereof the following:

**'TITLE VII****Miscellaneous Taxes**

**Sec. 1. R. S., c. 14, §§ 244-258, additional.** Chapter 14 of the revised statutes is hereby amended by adding thereto the following new sections, to be numbered 244 to 258, inclusive, to read as follows :

**'Admission Tax**

**Sec. 244. Tax on admissions.** A tax is hereby imposed at the rate of 5% of the amount paid for admission to any place, including admission by season ticket or subscription. The provisions of this section shall not apply to agricultural fairs or to any entertainment or show given by any religious organization.

**Luggage**

**Sec. 245. Tax on luggage.** There is hereby imposed upon the following articles, including in each case fittings or accessories therefor sold on or in connection with the sale thereof, sold at retail, a tax equivalent to 5% of the price for which so sold :

- I. Trunks, valises, traveling bags, suitcases, satchels, overnight bags, hat boxes for use by travelers, beach bags, bathing suit bags, brief cases made of leather or imitation leather, and salesmen's sample and display cases;
- II. Purses, handbags, pocketbooks, wallets, billfolds and card, pass and key cases; and
- III. Toilet cases and other cases, bags and kits, without regard to size, shape, construction or material from which made, for use in carrying toilet articles or articles of wearing apparel.

**Jewelry**

**Sec. 246. Tax on jewelry.** There is hereby imposed upon the following articles sold at retail, a tax equivalent to 5% of the price for which so sold :

- I. All articles commonly or commercially known as jewelry, whether real or imitation;
- II. Pearls, precious and semiprecious stones and imitations thereof;
- III. Watches and clocks and cases and movements therefor, excepting watches selling at retail for not more than \$65 and alarm clocks selling

at retail for not more than \$5, which are taxable at  $2\frac{1}{2}\%$  of the price for which sold;

IV. Articles made of, or ornamented, mounted or fitted with precious metals or imitations thereof;

V. Gold, gold-plated, silver or sterling flatware or hollow ware and silver-plated hollow ware; and

VI. Opera glasses, lorgnettes, marine glasses, field glasses and binoculars.

The tax imposed by this section shall not apply to any article used for religious purposes, to surgical instruments, to watches designed especially for use by the blind, to frames or mountings for spectacles or eyeglasses, to a fountain pen or smoker's pipe if the only parts of the pen or pipe which consist of precious metals are essential parts not used for ornamental purposes, or to buttons, insignia, cap devices, chin straps and other devices prescribed for use in connection with the uniforms of the armed forces of the United States.

#### Furs

Sec. 247. Tax on furs. There is hereby imposed upon the following articles sold at retail, a tax equivalent to 5% of the price for which sold:

I. Articles made of fur on the hide or pelt, and articles of which such fur is the component material of chief value.

Where a person, who is engaged in the business of dressing or dyeing fur skins or of manufacturing, selling or repairing fur articles, produces an article of the kind described in this section from fur on the hide or pelt, furnished directly or indirectly by a customer, and the article is for the use of, and not for resale by, such customer, the transaction shall be deemed to be a sale at retail and the person producing the article shall be deemed to be the person selling such article at retail for purposes of this section. The tax on such transaction shall be computed and paid by such person upon the fair retail market value, as determined by the state tax assessor, of the finished article.

#### Toilet Preparations

Sec. 248. Tax on toilet preparations. There is hereby imposed upon the following articles sold at retail a tax equivalent to 5% of the price for which sold: Perfumes, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, aro-

matic cachous, toilet powders and any similar substance, article or preparation, by whatever name known or distinguished; any of the above which are used or applied or intended to be used or applied for toilet purposes.

**Beauty Parlors.** For the purposes of this section, the sale of any articles described herein to any person operating a barber shop, beauty parlor or similar establishment for use in the operation thereof and not for resale, shall be considered a sale at retail.

### Radios, Phonographs and Musical Instruments

Sec. 249. Tax on radios, etc. There is hereby imposed upon the following articles sold at retail a tax equivalent to 5% of the price for which sold:

I. Radios;

II. Phonographs; and

III. Musical instruments, which shall mean those instruments having the capacity in and of themselves when properly operated to produce or initiate the musical sound, including juke-boxes, player pianos and those instruments which operate or are operated mechanically, except equipment used in connection with showing moving pictures.

### Administrative Provisions

Sec. 250. Definition. Whenever used in sections 244 to 258, inclusive, unless the context shall otherwise require, the word "person" shall mean any individual, firm, fiduciary, partnership, corporation, trust or association, however formed.

Sec. 251. Addition of tax. The taxes imposed by the provisions of sections 244 to 258, inclusive, may be added to the price of the admissions charged or the articles sold.

Sec. 252. Returns and payment of tax. Every person who owns, maintains or operates a place, admission to which is taxable under the provisions of section 244, and every person who sells at retail any article taxable under the provisions of sections 245 to 258, inclusive, shall make monthly returns. All taxes are due and payable without assessment or notice by the state tax assessor. The return, with remittance covering taxes due for any calendar month, must be in the hands of the state tax assessor on or before the last day of the succeeding month; provided, however, that the state tax assessor shall have the authority to require im-



mediate filing of a return and payment of a tax when such action in his discretion becomes necessary. The state tax assessor shall pay over all receipts from such taxes to the treasurer of state daily.

**Sec. 253. Credits and refunds.**

I. Credits against the taxes imposed by the provisions of sections 245 to 258, inclusive, or a refund may be allowed with respect to an article, when the price on which the tax was based is readjusted by reason of return or repossession of the article, or by a bona fide discount, rebate or allowance, in the amount of that part of tax proportionate to the part of the price which is refunded or credited. No overpayment of tax shall be credited or refunded unless the person who paid the tax establishes, in accordance with regulations:

A. That he has not included the tax in the price of the article with respect to which it was imposed, or collected the amount of tax from the purchaser, or

B. That he has repaid the amount of tax to the purchaser of the article or unless he files with the state tax assessor written consent of such purchaser to the allowance of the credit or refund.

A claim for a refund may be filed in any case where a credit may be taken. In all cases where a credit is taken, a statement fully explaining the reason why such credit is claimed must be attached to the return. This statement should also show whether any previous claim for credit or refund covering the amount involved, or any part thereof, has been filed; and should list each amount making up the total of the credit, the kind of tax, monthly return on which reported, date of payment, and, if the tax was paid with respect to more than 1 month, the exact amount of the credit chargeable to each month. A complete and detailed record of all credits must be kept by the taxpayer for a period of at least 4 years from the date the credit was taken.

II. If any person overpays or overcollects the tax due under the provisions of section 244 with one monthly return, credit for the overpayment or overcollection may be taken against the tax due with a succeeding return. In case a credit is claimed, a statement shall be attached to the return setting forth fully the facts regarding the alleged overpayment or overcollection and designating the kind of tax, the month for which the previous return was filed, and the date of payment. In the case of the overcollection of a tax, no credit for the amount overcollected shall be allowed until the person making the overcollection

submits a statement showing that the tax in each case so overcollected has been returned to the person making the overpayment. A complete and detailed record of such overpayment must be kept by the taxpayer for a period of at least 4 years from the date the credit is taken. Any amount deducted as a credit must be entered on the face of the return after the words: "Less credits . . ." A claim for refund may be filed in any case where a credit may be taken.

Sec. 254. Records. Every person required by sections 244 to 258, inclusive, to file a return and pay tax on the retail sale of luggage, jewelry, furs, toilet preparations, radios, phonographs or musical instruments, or tax on admission, shall keep on file at his principal place of business or some other convenient or safe location accurate records and accounts of all transactions. The records shall contain sufficient information to enable the state tax assessor or his duly authorized agent to determine whether the correct amount of tax has been paid. Such records shall be maintained for a period of at least 4 years from the date the tax is due. The books of every person liable to tax shall at all times be open for inspection by the state tax assessor or his duly authorized agent.

Sec. 255. Rules and regulations. The state tax assessor is hereby authorized to issue whatever rules and regulations he deems necessary to carry out the provisions of sections 244 to 258, inclusive.

Sec. 256. Penalties and interest.

I. Any person required to file a return under the provisions of sections 244 to 258, inclusive, and fails to file on time, shall be subject to an additional 5% of the tax if the failure is for not more than 30 days, with an additional 5% for each additional 30 days or fraction thereof during which the delinquency continues, to be recovered by an action of debt in the name of the state.

II. Any person who wilfully fails to pay any tax due, file return or keep records, or who attempts in any manner to evade or defeat the tax under the provisions of sections 244 to 258, inclusive, shall be punished by a fine of not less than \$100, nor more than \$500, for each offence, to be recovered by indictment to the use of the state, or imprisonment for not more than 11 months, or by both such fine and imprisonment.

III. Any person who wilfully files a false or fraudulent return under the provisions of sections 244 to 258, inclusive, shall be punished by a fine of not less than \$100, nor more than \$500, for each offence, to be

recovered by indictment to the use of the state, or imprisonment for not more than 11 months, or by both such fine and imprisonment.

Sec. 257. **Proceeds of tax.** The revenue derived from the taxes imposed by the provisions of sections 244 to 258, inclusive, shall be credited to the general fund of the state.

Sec. 258. **Effective date.** The provisions of sections 244 to 258, inclusive, shall become effective on November 1, 1946.'

Further amend said Bill by striking out all of Title IX and Title X thereof and inserting in place thereof the following:

## **'TITLE IX**

### **Referendum**

This act shall be submitted for approval or rejection to the duly qualified voters of the state of Maine at the general election to be held on the 2nd Monday of September, 1946. The municipal officers of the cities, towns and plantations in this state are hereby empowered and directed to notify the inhabitants of their respective cities, towns and plantations to meet in the manner prescribed by law for calling and holding biennial meetings of said inhabitants for the election of senators and representatives to give in their votes upon this act, and the question shall be: "Shall the act providing for the payment of a bonus to and insurance premiums for Maine veterans of World War II and for the payment of other veterans' benefits and to provide for such payments by miscellaneous taxes, as submitted by the 92nd legislature to the people, be accepted?" and the inhabitants of said cities, towns and plantations shall vote by ballot on said question, those in favor of the act expressing it by making a cross within the square opposite the word "Yes" upon the ballots and those opposed to the act by making a cross within the square opposite the word "No" upon their ballots, and the ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings, and returns made to the office of the secretary of state in the same manner as votes for governor and members of the legislature, and the governor and council shall count the same, and if it shall appear that a majority of the inhabitants voting on the question are in favor of the act, the governor shall forthwith make known the fact by his proclamation and thereupon this act shall become law. The secretary of state shall prepare and furnish to the several cities, towns and plantations ballots and blank returns in conformity with the foregoing act, accompanied by a copy thereof.

**TITLE X .**

**Conditional upon adoption of constitutional amendment; act to become effective upon same date as constitutional amendment.** This act shall take effect only under the provisions of title IX and upon the adoption in September, 1946, of the proposed amendment to Article IX of the constitution providing for the issuing of state bonds for the purpose of paying a bonus to or insurance premiums for Maine members of the military and naval forces in World War II and for the payment of other veterans' benefits and to provide for the payment of such bonds by miscellaneous taxes; and in case of such adoption shall take effect on the day said constitutional amendment becomes effective.'