

MAINE STATE LEGISLATURE

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

Legislative Document

No. 768

H. P. 1210

House of Representatives, February 16, 1951.

Referred to Committee on Taxation. Sent up for concurrence and 1250 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Hawkes of Saco.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

AN ACT to Impose an Excise Tax Upon Charges for Meals.

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

R. S., c. 14, §§ 300-309, additional. Chapter 14 of the revised statutes is hereby amended by adding thereto 10 new sections to be numbered 300 to 309, inclusive, to read as follows:

‘Sec. 300. Certain terms defined. The following words and phrases as used in sections 300 to 309, inclusive, shall have the following meanings unless the context otherwise requires:

“Person,” an individual, a partnership, society, association, joint stock company, corporation and any combination of individuals, and shall include fiduciaries and receivers;

“Taxable charge,” any amount including cover and other charges, for which the purchaser is charged as a total \$1 or more, charged for meals wherever served within the state, except in airplanes in flight;

“Taxpayer,” any person making a taxable charge;

Sec. 301. Tax upon charges for meals. There is hereby levied and there shall be collected and paid a tax equivalent to 5% of the amount charged

for all meals, including cover and other charges, if any, for which the purchaser is charged as a total \$1 or more, wherever served, within the state, except in airplanes in flight. The state tax assessor shall prescribe the method of determining the portion of an entire charge which is applicable to meals in the event that such entire charge is in part for meals and in part for lodging or any other item or service. The excise shall be paid by the taxpayer to the state tax assessor at the time and in the manner hereinafter provided.

Sec. 302. Registration; identification certificate; penalty for failure to register. Every taxpayer shall register with the state tax assessor and pay to him the sum of \$1, upon receipt of which the state tax assessor shall issue a numbered identification certificate in such form as he may determine, attesting that such registration has been made. The certificate so issued shall remain in effect so long as the taxpayer is engaged in the business of serving meals to the public and has complied with the provisions of sections 244 to 253, inclusive. No taxpayer shall on and after September 1st, 1951, engage in serving meals to the public without such registration certificate. Violation of any provision of this section shall be punishable by a fine of not less than \$200, nor more than \$500.

Sec. 303. Taxpayer to keep records. Every taxpayer shall keep such records of taxable charges and in such form as the state tax assessor may require. Such records shall be offered for inspection and examination at any time upon demand by the state tax assessor or his duly authorized agent or employee and shall be preserved for a period of 3 years; provided that the state tax assessor may consent to their destruction within that period or may require that they be kept longer.

Sec. 304. Returns. Every taxpayer shall file with the state tax assessor a return of his taxable charges for each calendar month. Every such return shall be filed within 10 days after the expiration of the period covered thereby; provided that the state tax assessor may extend the time for filing. The form of return hereunder shall be prescribed by the state tax assessor and shall contain such information as he may deem necessary for the proper administration of sections 300 to 309, inclusive.

Sec. 305. Payment of tax; penalty; bond of taxpayer. At the time of the filing of any return required under the provisions of section 304 the taxpayer shall pay to the state tax assessor the excise imposed by sections 300 to 309, inclusive, for the period covered by such return. The excise for the period for which a return is required to be filed shall be due and payable on the date determined for the filing of the return for such period,

without regard to whether the return is filed or whether the return which is filed correctly shows the amount of tax due. A taxpayer failing to pay the excise assessed by the state tax assessor under the provisions of sections 300 to 309, inclusive, shall pay interest at the rate of 6% per year from the time when such excise was payable until paid, if such payment is made before the commencement of proceedings for the recovery thereof, and 12% if made after the commencement thereof. The state tax assessor may enforce the collection of this excise by an action of debt in the name of the state. Any taxpayer shall file with the state tax assessor, if so required by him at any time, a bond, running to the state, in a penal sum determined, and in a form approved, by the state tax assessor, executed by such taxpayer and by a surety company authorized to do business in the state as surety, and conditioned upon the payment of any excise or penalties due or which may become due from such taxpayer under the provisions of sections 300 to 309, inclusive.

The state tax assessor may allow to the taxpayer an amount, which may be paid without any appropriation, in the form of abatement by reason of bad debts and such other causes as the state tax assessor may deem sufficient.

Sec. 306. State tax assessor to determine amount of tax in case of failure to file original or corrected return; appeal. If a taxpayer, having failed to file a return, or having filed an incorrect or insufficient return, without reasonable excuse fails to file within 20 days after the receipt of notice by him from the state tax assessor of his delinquency, a correct and sufficient return and to pay the tax therein shown to be due and interest thereon as provided in section 305, the state tax assessor, at any time within 3 years from the date when the return should have been filed, shall determine the amount due and give written notice of the amount so determined to the taxpayer. The amount so determined shall be payable forthwith and shall bear interest at the rate of 6% per year from the date when the original correct return should have been filed to the date of payment. The taxpayer, within 30 days after the receipt of such notice of the amount so determined, may appeal from the decision of the state tax assessor to the superior court, whose decision shall be final. Such appeal shall be filed in the office of the clerk of said court in the county where such taxpayer is doing business, and shall be heard and determined at the next term thereof held after said appeal is filed. Notice and hearing of such appeal shall be given and held in the manner provided by section 43 of chapter 81. The decision of the court upon such appeal shall be certified by the clerk to the said state tax assessor. The taxpayer shall be reimbursed by the state for

any overpayment of tax determined by the decision of the superior court, with interest at the rate of 6% per year from the time of payment.

Sec. 307. Penalty for failure to file return. A taxpayer who fails to file a return required by sections 300 to 309, inclusive, when due shall forfeit to the state and shall pay to the state tax assessor on demand, the sum of \$5 for each day of delay after written notice by the state tax assessor of such failure. The state tax assessor may remit the whole or any part of said penalty. Such penalty may be recovered by an action of debt in the name of the state.

Sec. 308. Penalty for violation of any provision of sections 300 to 309, inclusive. A taxpayer who violates any provision of sections 300 to 309, inclusive, for which no other penalty is provided, or who files a false return, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

Sec. 309. Sums received to be paid to treasurer of state. All sums received under the provisions of sections 300 to 309, inclusive, as excise, penalties or forfeitures, interest, costs of suit and fines shall be paid to the treasurer of state daily and credited to the general fund.'