

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND ELEVENTH LEGISLATURE

**FIRST REGULAR SESSION**  
December 1, 1982 to June 24, 1983  
Chapters 453-End

AND AT THE

**FIRST SPECIAL SESSION**  
September 6, 1983 to September 7, 1983  
Chapters 583-588

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ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1983

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

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## CHAPTER 560

S.P. 627 - L.D. 1766

AN ACT to Change the Treatment of  
Certain Sales under the Sales Tax Law.

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

Sec. 1. 36 MRSA §1752, sub-§11, as amended by PL 1981, c. 163, §2, is further amended to read:

11. Retail sale or sale at retail. "Retail sale" or "sale at retail" means any sale of tangible personal property, in the ordinary course of business, for consumption or use, or for any purpose other than for resale, except resale as a casual sale, in the form of tangible personal property, any rental of living quarters in any hotel, rooming house, tourist or trailer camp, any rental of automobiles on a short-term basis, other than rental to a person engaged in the business of renting automobiles, and the sale of telephone or telegraph service. The term "retail sale" or "sale at retail" includes conditional sales, installment lease sales, and any other transfer of tangible personal property when the title is retained as security for the payment of the purchase price and is intended to be transferred later. The term "retail sale" or "sale at retail" also means sale of products for internal human consumption to a person for resale through coin-operated vending machines when sold to a retailer whose gross receipts from the retail sale of tangible personal property derived through sales from vending machines are more than 50% of his gross receipts, which tax shall be paid by the retailer to the State. The term "retail sale" or "sale at retail" does not include any sale by an executor or administrator in the settlement of an estate, unless such sale is made through a retailer, or unless such sale is made in the continuation or operation of a business; nor does the term include any other isolated transaction in which any tangible personal property is sold, transferred, offered for sale or delivered by the owner thereof, such sale, transfer, offer for sale, or delivery not being made in the ordinary course of repeated and successive transactions of a like character by such owner, such transactions being elsewhere sometimes referred to as "casual sales." "Casual sales" includes transactions by a civic, religious or fraternal organization, which is not a registered retailer, at bazaars, fairs, rummage sales, picnics

or similar events but not exceeding 8 days in a calendar year. The sale by a registered retailer of tangible personal property, which that retailer has used in the course of his or its business, is not a casual sale and is a retail sale subject to taxation under this Part, if that property is of a like character to that sold in the ordinary course of repeated and successive transactions. "Casual sale" shall not include any transaction in which tangible personal property is sold, transferred or offered for sale by a representative for the owner's account when such representative is a registered retailer, in which event such registered retailer shall have the same duties respecting such sale as if he had sold on his own account. "Retail sale" and "sale at retail" do not include the sale of tangible personal property which becomes an ingredient or component part of, or which is consumed or destroyed or loses its identity in the manufacture of, tangible personal property for later sale or lease, other than lease for use in this State, but shall include fuel and electricity but shall not include electricity separately metered and consumed in any electrolytic process for the manufacture of tangible personal property for later sale, nor any fuel oil or coal, the by-products from the burning of which become an ingredient or component part of tangible personal property for later sale. "Retail sale" and "sale at retail" do not include the sale, to a person engaged in the business of renting automobiles, of automobiles, or integral parts thereof or accessories thereto, for rental or for use in an automobile rented, on a short-term basis. It shall be considered that tangible personal property is "consumed or destroyed" or "loses its identity" in such manufacture, if it has a normal physical life expectancy of less than one year as a usable item in the use to which it is applied. "Retail sale" or "sale at retail" do not include the sale of containers, boxes, crates, bags, cores, twines, tapes, bindings, wrappings, labels and other packing, packaging and shipping materials when sold to persons for use in packing, packaging or shipping tangible personal property sold by them or upon which they have performed the service of cleaning, pressing, dyeing, washing, repairing or reconditioning in their regular course of business and which are transferred to the possession of the purchaser of such tangible personal property.

Sec. 2. 36 MRSA §1760, sub-§16, as amended by PL 1981, c. 706, §21, is further amended to read:

16. Hospitals, research centers, churches and schools. Sales to incorporated hospitals, incorporated nonprofit nursing homes licensed by the Depart-

ment of Human Services, incorporated nonprofit home health care agencies certified under Title XVII of the United States Social Security Act of 1965, Title XVIII, as amended, incorporated nonprofit rural community health centers engaged in, or providing facilities for, the delivery of comprehensive primary health care, incorporated nonprofit dental health centers, institutions incorporated as nonprofit corporations for the sole purpose of conducting medical research or for the purpose of establishing and maintaining laboratories for scientific study and investigation in the field of biology or ecology or operating educational television or radio stations, schools and regularly organized churches or houses of religious worship, excepting sales, storage or use in activities which are mainly commercial enterprises. "Schools" mean incorporated nonstock educational institutions, including institutions empowered to confer educational, literary or academic degrees, which have a regular faculty, curriculum and organized body of pupils or students in attendance throughout the usual school year, which keep and furnish to students and others records required and accepted for entrance to schools of secondary, collegiate or graduate rank, no part of the net earnings of which inures to the benefit of any individual.

Sec. 3. 36 MRSA §1760, sub-§§42 and 43 are enacted to read:

42. Historical societies and museums. Sales to incorporated nonprofit historical societies and museums.

43. Nursery schools and day-care centers. Sales to licensed, nonprofit nursery schools and day-care centers.

Sec. 4. 36 MRSA §2014 is enacted to read:

§2014. Fish passage facilities

Taxes on the sale or use of materials used in the construction of fish passage facilities in new, reconstructed or redeveloped dams, when the fish passage facilities are built in accordance with plans and specifications approved by the Department of Inland Fisheries and Wildlife or the Department of Marine Resources, shall be refundable.

The State Tax Assessor shall refund sales or use tax paid on these construction materials upon the submission by a person of the following:

1. Certification concerning construction. A

certification from the Department of Inland Fisheries and Wildlife or the Department of Marine Resources that the fish passage facilities were constructed in accordance with approved plans and specifications; and

2. Application for tax rebate. An application for a tax rebate which shall state at a minimum the construction materials purchased, its manufacturers, its cost, the use of which the purchaser has made of the materials and the seller from whom the purchase was made, and shall be accompanied by a copy of the purchase invoices.

Sec. 5. Public Law 1983, c. 477, Part F, Subpart 3, section 3 is enacted to read:

3. Application. This subpart shall apply to taxable years beginning on or after January 1, 1983.

Sec. 6. Effective date. Sections 1 and 4 of this Act shall take effect on July 1, 1984. Section 2 of this Act and Title 36, section 1760, subsection 43 shall take effect on October 1, 1984. Title 36, section 1760, subsection 42 shall take effect on January 1, 1984.

Effective September 23, 1983 unless otherwise indicated.

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## CHAPTER 561

H.P. 1344 - L.D. 1783

### AN ACT Relating to Services of a Municipal Character in the Unorganized Territory.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, prompt determination and certification of the municipal cost components in the unorganized territory tax district is necessary to the establishment of a mill rate and the levy of the unorganized territory educational and services tax; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,