

# MAINE STATE LEGISLATURE

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**LAWS**

OF THE

**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND FOURTEENTH LEGISLATURE

**FIRST REGULAR SESSION**

December 7, 1988 to July 1, 1989

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Company  
Augusta, Maine  
1989

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION  
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ONE HUNDRED AND FOURTEENTH LEGISLATURE  
1989

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(2) Hearings provided under subsection 3 will be conducted by an impartial hearing officer whose decision may be appealed to court; and

(3) The person may be eligible to receive free legal assistance in pursuing an appeal. This statement shall also provide a list of organizations that provide legal assistance to persons of low income.

**2. Appeal provided.** Any person who requests or receives job training services provided under section 2013 may obtain a review of any decision made by the job training agency related to those services. When an individual requests a review, the agency shall promptly investigate and attempt to resolve the complaint informally. If the problem is not resolved to the complainant's satisfaction through this informal process, a hearing to review the agency's decision shall be scheduled before an impartial hearing officer as provided in subsection 3.

**3. Hearing standards.** Hearings provided under this section shall be held pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.

**Sec. 4. 26 MRSA §2015, first ¶,** as enacted by PL 1987, c. 466, §3, is amended to read:

This subchapter is intended to serve individuals whose participation in the labor force might be dependent on, or significantly enhanced by, the training and services provided under this subchapter. The objective of the Act is to serve additional persons who are eligible for services under Titles II and III of the United States Job Training Partnership Act, Public Law 97-300, as amended by the Omnibus Trade and Competitiveness Act, Public Law 100-418, and displaced homemakers, as defined in section 1601. Innovative approaches will be authorized under this subsection. Traditionally noneligible persons may be served if they are marginally employed, or when their enrollment will result in additional training and employment opportunities for the traditionally eligible population. For the purposes of this section, "marginally employed" means that a person is employed at or near minimum wage, is not a member of a group traditionally eligible for job training services and is in need of job training to enhance that person's earning capacity. These individuals may include, but are not limited to:

**Sec. 5. 26 MRSA §2017, sub-§1,** as enacted by PL 1987, c. 466, §3, is amended to read:

**1. Legislative review.** The joint standing committee of the Legislature having jurisdiction over economic development matters shall review and make recommendations to the Commissioner of Labor, the private industry councils and the Governor with respect to the program defined in this subchapter. The committee:

A. Shall be notified of any hearing held pursuant to section 2012;

B. Shall be provided with copies of any draft plans and actual plans developed pursuant to this subchapter;

C. Shall be provided with any reports, research findings, evaluations and any other materials requested by the committee or any member of the committee to undertake its review; and

D. May make recommendations to the appropriate joint standing committee of the Legislature or any agency or organization concerned with the program established pursuant to this subchapter.

**Sec. 6. 26 MRSA §2017, sub-§2, ¶¶B and D,** as enacted by PL 1987, c. 466, §3, are amended to read:

B. Enrollments, including the number of individuals participating who are eligible for services under Titles II and III of the United States Job Training Partnership Act, Public Law 97-300, as amended by the Omnibus Trade and Competitiveness Act, Public Law 100-418, and Displaced Homemakers displaced homemakers, as defined in section 1601;

D. The number of persons who applied and were not enrolled, including served in the job training system and the primary reasons that why they were not enrolled served.

See title page for effective date.

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## CHAPTER 533

H.P. 975 - L.D. 1353

### An Act Relating to Sales Tax Exemptions and Revenues

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

**Whereas,** it is necessary for certain organizations to begin using their sales tax exemptions before the expiration of the 90-day period in order to receive the full benefits of the exemptions; and

**Whereas,** granting sales tax exemptions should occur on a full fiscal year basis whenever possible in order to ensure consistent tax policy and administrative procedures; 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,

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

**Sec. 1. 36 MRSA §1752, sub-§11**, as repealed and replaced by PL 1987, c. 497, §22, is amended to read:

**11. Retail sale.** "Retail sale" 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. "Retail sale" also means any sale of a taxable service in the ordinary course of business for any purpose other than for resale, except resale as a casual sale. "Retail sale" 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. "Retail sale" includes 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 the retailer's gross receipts, which tax shall be paid by the retailer to the State. "Retail sale" does not include any sale by a personal representative in the settlement of an estate, unless the sale is made through a retailer, or unless the sale is made in the continuation or operation of a business; nor does the term include any other casual sale. "Retail sale" does 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 directly and primarily in the production 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. Tangible personal property is "consumed or destroyed" or "loses its identity" in that production, 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" does not include the sale, to a person engaged in the business of renting automobiles, of automobiles, or integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented, on a short-term basis. "Retail sale" does 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. "Retail sale" does not include the provision of meals or lodging to employees at their place of employment when the value of those meals or that lodging is allowed as a credit toward the wages of those employees. "Retail sale" does not include the sale of video tapes and video equipment to a person engaged in the business of renting video tapes and video equipment.

**Sec. 2. 36 MRSA §1752, sub-§17-A, ¶¶E and F**, as enacted by PL 1987, c. 497, §25, are amended to read:

E. Fabrication services; ~~and~~

F. Custom computer programming, including, but not limited to, modification of a standard program; and

**Sec. 3. 36 MRSA §1752, sub-§17-A, ¶G** is enacted to read:

G. Rental of video tapes and video equipment.

**Sec. 4. 36 MRSA §1752, sub-§23** is enacted to read:

**23. Video tapes and video equipment.** "Video tapes" means prerecorded magnetic tapes used for noncommercial playback of images and sound on video equipment. "Video equipment" means equipment used to play back video tapes and equipment used for recording images and sound for subsequent noncommercial playback.

**Sec. 5. 36 MRSA §1760, sub-§23-A**, as amended by PL 1985, c. 691, §12, is further amended to read:

**23-A. Truck bodies and trailers.** Truck bodies; ~~semi-trailers~~; and trailers, manufactured in Maine, except camper bodies and trailers, purchased by a nonresident who intends to remove them immediately from the State upon delivery by the seller. If the truck body, ~~semi-trailer~~ or trailer is returned to Maine for an otherwise taxable use in Maine within 12 months of the date of purchase, the purchaser shall be liable for use tax, based on the original purchase price; ;

**Sec. 6. 36 MRSA §1760, sub-§23-B** is enacted to read:

**23-B. Semitrailers.** Semitrailers purchased by a nonresident and intended to be driven or transported outside the State immediately upon delivery by the seller. If the semitrailer is registered for use in Maine within 12 months of the date of purchase, the person seeking registration shall be liable for use tax on the basis of the original purchase price;

**Sec. 7. 36 MRSA §1760, sub-§56**, as repealed and replaced by PL 1987, c. 769, Pt. A, §153, is amended to read:

**56. Nonprofit youth organizations.** Sales to nonprofit youth organizations whose primary purpose is to provide athletic instruction in a nonresidential setting, or to councils and local units of incorporated nonprofit national scouting organizations;

**Sec. 8. 36 MRSA §1760, sub-§§67 to 71** are enacted to read:

**67. Nonprofit home construction organizations.** Sales to local branches of incorporated nonprofit organizations whose purpose is to construct low-cost housing for low-income people;

**68. Maine Science and Technology Commission.**

Sales to institutions incorporated as nonprofit organizations which conduct scientific and technological research solely for the Maine Science and Technology Commission and receive funding pursuant to Title 5, chapter 385;

69. Vietnam veteran registries. Sales to incorporated, nonprofit organizations whose sole purpose is to create, maintain and update a registry of Vietnam veterans;

70. Organizations providing certain services for hearing-impaired persons. Sales to incorporated nonprofit organizations whose primary purposes are to promote public understanding of hearing impairment and to assist hearing-impaired persons through the dissemination of information about hearing impairment to the general public and referral to and coordination of community resources available to hearing-impaired persons; and

71. State-chartered credit unions. Sales to credit unions that are organized under the laws of this State. This subsection shall remain in effect only for the time that federally chartered credit unions are, by reason of federal law, exempt from payment of state sales tax.

**Sec. 9. 36 MRSA §1765, sub-§7,** as enacted by PL 1987, c. 402, Pt. A, §180, is amended to read:

**7. Special mobile equipment.** Special mobile equipment ~~to the extent of 20% of the trade-in allowance for the property taken in trade;~~

**Sec. 10. 36 MRSA §1811, first ¶,** as repealed and replaced by PL 1987, c. 497, §40, is amended to read:

A tax is imposed at the rate of 5% on the value of all tangible personal property, on telephone and telegraph service, on extended cable television service, on fabrication services ~~and~~ on custom computer programming sold at retail in this State and on rental of video tapes and video equipment, and at the rate of 7% on the value of all other taxable services sold at retail in this State. Value shall be measured by the sale price, except as otherwise provided.

**Sec. 11. 36 MRSA §2013, sub-§1, ¶A,** as repealed and replaced by PL 1981, c. 680, is amended to read:

A. "Agricultural production" means commercial production of crops for human and animal consumption, including the commercial production of sod, the commercial production of seed to be used primarily to raise crops for nourishment of humans or animals and production of livestock.

**Sec. 12. 36 MRSA §2013, sub-§1, ¶B,** as enacted by PL 1977, c. 686, §5, is amended to read:

B. "Commercial fishing" means attempting to catch or cultivate fish or any other marine animals or organisms with the intent of disposing of them for profit or trade in commercial channels and does not include

subsistence fishing for personal use, sport fishing or charter boat fishing where the vessel is used for carrying sport fishermen to available fishing grounds.

**Sec. 13. 36 MRSA §2013, sub-§1, ¶C,** as repealed and replaced by PL 1985, c. 691, §§25 and 48, and c. 737, Pt. A, §98, is amended to read:

C. "Depreciable machinery and equipment" means that part of the following machinery and equipment for which depreciation is allowable under the United States Internal Revenue Code and repair parts for that machinery and equipment:

(1) New or used machinery and equipment for use directly and primarily in commercial agricultural production, including self-propelled vehicles, but excluding motor vehicles as defined in section 1752, subsection 7, attachments and equipment for the production of field and orchard crops; new or used machinery and equipment used in production of milk and in animal husbandry and production of livestock, including poultry; or

(2) New or used watercraft used directly and primarily for commercial fishing; and nets, traps, cables, tackle and related equipment necessary to the operation of a commercial fishing venture, but excluding motor vehicles as defined in section 1752, subsection 7.

**Sec. 14. Effective date.** Sections 1, 2, 3, 4 and 10 of this Act shall take effect August 1, 1989.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect on July 1, 1989, except as otherwise indicated.

Effective July 1, 1989, unless otherwise indicated.

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## CHAPTER 534

H.P. 776 - L.D. 1088

### An Act to Provide Comprehensive Property Tax Relief

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

**Whereas,** the filing period under the Maine Residents Property Tax Program may occur before the expiration of the 90-day period; and

**Whereas,** it is necessary for the Commission to Study Problems with the Municipal Assessment, Valuation and Collection of Property Taxes to begin its work on or before August 1, 1989; and