

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

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

AS PASSED BY THE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
**FIRST SPECIAL SESSION**

August 21, 1989 to August 22, 1989

and

**SECOND REGULAR SESSION**

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
July 14, 1990

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

---

---

J.S. McCarthy Company  
Augusta, Maine  
1990

---

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

**AS PASSED AT THE**  
**SECOND REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**

**January 3, 1990 to April 14, 1990**

---

B. Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

5. Credit is allowed as an asset or deduction from liability to any ceding insurer only for reinsurance ceded to an assuming insurer qualified under this section, except that no credit is allowed, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer.

6. This section does not apply to wet marine and transportation insurance.

7. The superintendent may adopt rules, subject to Title 5, chapter 375, to implement this section.

#### §731-C. Bulk reinsurance

The cession of bulk reinsurance by a domestic insurer is subject to section 3483.

#### §731-D. Notification of reinsurance changes

Upon request of the superintendent, an insurer shall promptly inform the superintendent in writing of the cancellation or any other material change of any of the insurer's reinsurance treaties or arrangements.

**Sec. E-3. 24-A MRSA §3483, sub-§6** is enacted to read:

6. The superintendent may adopt rules, subject to Title 5, chapter 375, to effectuate this section.

**Sec. E-4. Application.** Title 24-A, section 731-B, subsection 2, as enacted by section E-2 of this Act, applies to reinsurance agreements executed or renewed on or after the effective date of this Part. For purposes of this Act, reinsurance agreements are deemed renewed no later than 6 months after the effective date of this Part.

See title page for effective date.

---

## CHAPTER 847

H.P. 1573 - L.D. 2180

### An Act to Amend Certain Sales Tax Exemptions

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

**Sec. 1. 36 MRSA §1752, sub-§1-D**, as enacted by PL 1987, c. 497, §15, is amended to read:

**1-D. Casual sale.** "Casual sale" means an isolated transaction in which tangible personal property or a taxable service is sold other than in the ordinary course of repeated and successive transactions of like character by

the person making the sale. "Casual sales" include transactions by a civic, religious or fraternal organization which is not a registered retailer at a bazaar, fair, rummage sale, picnic or similar event, ~~but, if any such organization makes such transactions during more than 8 days during a calendar year, all such transactions during the calendar year constitute retail sales.~~ The sale by a registered retailer of tangible personal property which that retailer has used in the course of ~~his~~ the retailer's business is not a "casual sale" if that property is of like character to that sold in the ordinary course of repeated and successive transactions. "Casual sale" does not include any transaction in which tangible personal property is sold by a representative for the owner's account when that representative is a registered retailer and the registered retailer shall have the same duties respecting any such transaction as if ~~he~~ the representative had sold on ~~his~~ the representative's own account.

**Sec. 2. 36 MRSA §1760, sub-§3, ¶D**, as repealed and replaced by PL 1985, c. 819, Pt. A, §§40 and 41, is amended to read:

D. Those made from a retail location from which food ordinarily is sold for consumption without further preparation or storage, ~~even though the products are packaged or wrapped in bulk quantities;~~ and

**Sec. 3. 36 MRSA §2013, sub-§3**, as amended by PL 1985, c. 411, §2, is further amended to read:

**3. Exemption for large purchase after certification.** ~~No sales tax may be~~ is not paid on the purchase of a single item of machinery or equipment ~~with a sales price in excess of \$1,000;~~ if the purchaser has the certification of the State Tax Assessor that ~~he~~ the purchaser is engaged in commercial agricultural production or commercial fishing, and that ~~he~~ the purchaser may purchase depreciable machinery and equipment without paying Maine sales tax. The seller is required to obtain a copy of the certificate together with an affidavit as prescribed by the State Tax Assessor, to be maintained in the seller's records, attesting to the qualification of the purchase for exemption pursuant to this section. In order to qualify for this exemption, the depreciable machinery or equipment must be ~~sued only for use~~ used directly in commercial agricultural production or commercial fishing.

See title page for effective date.

---

## CHAPTER 848

S.P. 888 - L.D. 2264

### An Act to Establish the Taxpayer Bill of Rights

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

**Sec. 1. 36 MRSA §112, sub-§3**, as enacted by PL 1981, c. 364, §7, is amended to read:

**3. Examination of witnesses.** The State Tax Assessor may summon ~~before him~~ and examine under oath any person whose testimony ~~he deems~~ is deemed necessary to the proper discharge of ~~his~~ the State Tax Assessor's duties and may require the production of all books or other documents in the custody or control of that person which relate to any matter which the State Tax Assessor has authority to investigate or determine. This examination may be conducted by an agent designated by the State Tax Assessor and ~~shall be deemed~~ is considered an "official proceeding" within the meaning of that term in Title 17-A, section 451. The State Tax Assessor or that agent may administer all oaths required under this Title and may, in ~~his~~ the State Tax Assessor's discretion, reduce any examination under oath to writing. Any person summoned under this section is entitled to receive at the same time a copy of the Taxpayer Bill of Rights statement required to be prepared under subsection 7-A.

Any justice of the Superior Court and, with respect to the taxes imposed under Part 6, any judge of probate, upon application of the State Tax Assessor, may compel the attendance of witnesses and the giving of testimony before the State Tax Assessor in the same manner, to the same extent and subject to the same penalties as if before the court over which that justice or judge presides.

**Sec. 2. 36 MRSA §112, sub-§7-A** is enacted to read:

**7-A. Taxpayer Bill of Rights.** The State Tax Assessor shall prepare a statement describing in simple and nontechnical terms the rights of a taxpayer and the obligations of the Bureau of Taxation during an audit. The statement must also explain the procedures by which a taxpayer may appeal any adverse decision of the State Tax Assessor, including the informal conference and judicial appeals. This statement must be distributed by the Bureau of Taxation to any taxpayer contacted with respect to the determination or collection of any tax, excluding the normal mailing of tax forms.

**Sec. 3. 36 MRSA §151, first and 2nd ¶¶,** as amended by PL 1981, c. 364, §9, are further amended to read:

Any person who is entitled by law to receive notice of a determination of the State Tax Assessor and who is aggrieved by that determination may petition in writing, within ~~45~~ 30 days after receipt of notice of that determination, for reconsideration by the State Tax Assessor of that determination.

If a petition for reconsideration is filed within the specified time period, the State Tax Assessor shall reconsider ~~his~~ the determination. If the petitioner has so requested in ~~his~~ the petition, the State Tax Assessor shall hold an informal conference with the petitioner to receive additional information and to hear argument regarding the protested determination and shall give the petitioner ~~10 days'~~ 10 working days' notice of the time and place of the conference. However, the conference may be held with less than 10 working days' notice if a mutually con-

venient time and place can be arranged between the petitioner and the State Tax Assessor. The reconsideration, with or without an informal conference, ~~shall not be deemed to be~~ is not an "adjudicatory proceeding" ~~within the meaning of that term in the Maine Administrative Procedure Act as defined in Title 5, section 8002.~~

**Sec. 4. 36 MRSA §151-A** is enacted to read:

**§151-A. Additional safeguards**

**1. Recording of interviews.** The State Tax Assessor, upon advance request, shall allow a taxpayer to make an audio recording of any in-person interview concerning the determination and collection of any tax. The recording must be made at the taxpayer's own expense and with that person's own equipment.

The State Tax Assessor may record the interview if the State Tax Assessor:

A. Informs the taxpayer of the recording prior to the interview; and

B. Upon request of the taxpayer, provides the taxpayer with a transcript or copy of the recording, but only if the taxpayer provides reimbursement for the cost of the transcription and reproduction of the transcript or copy.

**2. Representative of taxpayer.** The taxpayer may bring to any interview or informal conference any attorney, certified public accountant, enrolled agent, enrolled actuary or any other person permitted to represent the taxpayer. If the taxpayer does not bring anyone to the conference but clearly states at any time during the informal conference that the taxpayer wishes to consult with an attorney, certified public accountant, enrolled agent, enrolled actuary or any other person permitted to represent the taxpayer, the State Tax Assessor shall suspend the interview. The suspension must occur even if the taxpayer has answered one or more questions before that point in the interview. The conference must be rescheduled to be held within 10 working days.

See title page for effective date.

---

**CHAPTER 849**

**H.P. 1715 - L.D. 2368**

**An Act to Reduce Toxics in Packaging**

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

**Sec. 1. 32 MRSA c. 26-A** is enacted to read:

**CHAPTER 26-A**

**REDUCTION OF TOXICS IN PACKAGING**