

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

SECOND SPECIAL SESSION

July 29, 2005

SECOND REGULAR SESSION

January 4, 2006 to May 24, 2006

THE GENERAL EFFECTIVE DATE FOR

SECOND SPECIAL SESSION

NON-EMERGENCY LAWS IS

OCTOBER 28, 2005

THE GENERAL EFFECTIVE DATE FOR

SECOND REGULAR SESSION

NON-EMERGENCY LAWS IS

AUGUST 23, 2006

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

Penmor Lithographers

Lewiston, Maine

2006

CHAPTER 675**S.P. 666 - L.D. 1749****An Act To Clarify the Taxable Status of Processing Fees Charged in Connection with Cancelled Lodging Reservations****Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 36 MRSA §1752, sub-§14, ¶B, as amended by PL 2003, c. 673, Pt. V, §16 and affected by §29, is further amended to read:

B. "Sale price" does not include:

- (1) Discounts allowed and taken on sales;
- (2) Allowances in cash or by credit made upon the return of merchandise pursuant to warranty;
- (3) The price of property returned by customers, when the full price is refunded either in cash or by credit;
- (4) The price received for labor or services used in installing or applying or repairing the property sold, if separately charged or stated;
- (5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, motel, restaurant or other eating establishment to its employees as wages;
- (6) The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax;
- (7) The cost of transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, provided that those charges are separately stated and the transportation occurs by means of common carrier, contract carrier or the United States mail;
- (8) The fee imposed by Title 10, section 1169, subsection 11;
- (9) The fee imposed by section 4832, subsection 1; ~~or~~

(10) The lead-acid battery deposit imposed by Title 38, section 1604, subsection 2-B; ~~or~~

(11) Any amount charged or collected by a person engaged in the rental of living quarters as a forfeited room deposit or cancellation fee if the prospective occupant of the living quarters cancels the reservation on or before the scheduled date of arrival.

Sec. 2. Retroactivity; application. This Act applies to amounts charged or collected as forfeited deposits or cancellation fees on or after January 1, 2001 except that a person who has paid sales tax on forfeited deposits or cancellation fees on or after January 1, 2001 but prior to the effective date of this Act is not entitled to a refund of the sales tax paid as a result of the operation of this Act. A person who has collected sales tax on forfeited deposits or cancellation fees on or after January 1, 2001 shall remit the tax as required by the Maine Revised Statutes, Title 36, chapter 219.

See title page for effective date.

CHAPTER 676**S.P. 779 - L.D. 2028****An Act To Establish a Computer Crimes Unit within the Maine State Police Crime Laboratory**

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

Whereas, in order for the State to combat the serious problem of child pornography and the related crime of child sexual abuse through the seizure and forensic evaluation of computers, more state resources must be dedicated for that purpose; and

Whereas, in order for the Department of Public Safety to be able to hire new forensic examiners for the full fiscal year to aggressively address the proliferation of child pornography, resources for that purpose must be appropriated immediately; 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. 4 MRSA §1057, sub-§2-A, as amended by PL 2003, c. 673, Pt. TT, §1, is further amended to read:

2-A. Surcharge imposed. Surcharges of 14% and 5% must be added to every fine, forfeiture or penalty imposed by any court in this State, which, for the purposes of collection and collection procedures, are considered a part of the fine, forfeiture or penalty. The 14% surcharge collected as a result of this subsection must be deposited monthly in the Government Operations Surcharge Fund and the 5% surcharge collected as a result of this subsection must be deposited directly into the General Fund. ~~Two-sevenths~~ Three fourteenths of the surcharge collected and deposited in the Government Operations Surcharge Fund must be paid to the Maine Criminal Justice Academy to supplement current funds for training and recertification of part-time and full-time law enforcement officers. One fourteenth of the surcharge collected and deposited in the Government Operations Surcharge Fund must be paid to the State Police to supplement current funds for computer crimes investigations.

Sec. 2. 25 MRSA c. 192-A, as amended, is repealed.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

PUBLIC SAFETY, DEPARTMENT OF

State Police 0291

Initiative: Allocates funds for the creation of a computer crimes unit within the State Police program by establishing 2 Computer Crimes Forensic Analyst positions with necessary operational costs for the unit.

OTHER SPECIAL REVENUE

FUNDS	2005-06	2006-07
POSITIONS -		
LEGISLATIVE COUNT	0.000	2.000
Personal Services	\$0	\$162,800
All Other	\$0	\$112,200
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OTHER SPECIAL REVENUE		
FUNDS TOTAL	\$0	\$275,000

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 1, 2006.



CHAPTER 677

H.P. 1439 - L.D. 2041

An Act To Enhance Maine's Energy Independence and Security

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

PART A

Sec. A-1. 36 MRSA §3203, sub-§1-A is enacted to read:

1-A. Special biodiesel rate. Notwithstanding subsection 1, the rate for distillates containing 2% or more of biodiesel fuel by volume is 20¢ per gallon. This subsection is repealed 90 days after the adjournment of the First Regular Session of the 123rd Legislature.

Sec. A-2. Study group. The Department of the Secretary of State, Bureau of Motor Vehicles shall convene a study group consisting of the Bureau of Motor Vehicles; Office of Energy Independence and Security; the Department of Transportation; and the Department of Administrative and Financial Services, Bureau of Revenue Services. The study group shall consider the revenue impacts of a differential tax on biodiesel, the impacts on tax administration and compliance and alternatives to a differential tax including a refund process.

By March 15, 2007, the Department of the Secretary of State, Bureau of Motor Vehicles shall report the findings and recommendations of the study group, including any necessary implementing legislation, to the joint standing committee of the Legislature having jurisdiction over utilities matters and the joint standing committee of the Legislature having jurisdiction over transportation matters. Either the joint standing committee of the Legislature having jurisdiction over utilities matters or the joint standing committee of the Legislature having jurisdiction over transportation matters, after consultation between the committees, may report out legislation on the subject matter of the report to the First Regular Session of the 123rd Legislature.

Sec. A-3. Transfer from General Fund to Highway Fund. The State Controller shall transfer \$20,000 from the General Fund unappropriated surplus to the Highway Fund unappropriated surplus no later than June 30, 2007.

PART B

Sec. B-1. 35-A MRSA §3212, sub-§4-A, as enacted by PL 2003, c. 665, §2, is repealed.