

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 2010 to June 29, 2011

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 28, 2011

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

Augusta, Maine
2011

E. Must provide to the consumer within 30 days of contracting for retail service a disclosure of information provided to the commission pursuant to rules adopted under subsection 3 in a standard written format established by the commission; and

Sec. 3. 35-A MRSA §3203, sub-§4, ¶F, as amended by PL 2003, c. 558, §2, is further amended to read:

F. Must comply with any other applicable standards or requirements adopted by the commission by rule or order; and.

Sec. 4. 35-A MRSA §3203, sub-§4, ¶G, as enacted by PL 2003, c. 558, §3, is repealed.

See title page for effective date.

**CHAPTER 285
H.P. 971 - L.D. 1325**

**An Act To Amend the Tax
Laws**

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

Sec. 1. 5 MRSA §13090-L, sub-§4, as amended by PL 2009, c. 470, §1, is further amended to read:

4. Certified visual media production report. No later than 4 weeks after completion of a certified visual media production, the visual media production company shall report, in a format specified by the Maine State Film Office or the department, its compliance with the requirements of subsection 3 with respect to the certified visual media production to the Maine State Film Office and the State Tax Assessor.

Sec. 2. 36 MRSA §1753, as repealed and replaced by PL 1987, c. 497, §26, is amended to read:

§1753. Tax is a levy on consumer

The ~~liability for, or the incidence of, the~~ tax imposed by this Part is declared to be a levy on the consumer. The retailer shall add the amount of the tax to the sale price and may state the amount of the tax separately from the sale price of tangible personal property or taxable services on price display signs, sales or delivery slips, bills and statements ~~which that~~ advertise or indicate the sale price of that property or those services. If the retailer does not state the amount of the tax separately from the sale price of tangible personal property or taxable services, the retailer shall include a statement on the sales slip or invoice presented to the purchaser that the stated price includes Maine sales tax.

Sec. 3. 36 MRSA §1760, sub-§25, ¶B, as enacted by PL 2009, c. 620, §1 and affected by §2, is repealed and the following enacted in its place:

B. The purchase of a watercraft outside this State is exempt if the watercraft is registered outside the State by the purchaser and used outside the State by the purchaser and the watercraft is present in the State not more than 30 days, not including any time spent in this State for temporary storage, during the 12 months following its purchase. For purposes of this paragraph, "used outside the State" does not include storage but means actual use of the watercraft for a purpose consistent with its design.

Sec. 4. 36 MRSA §1760, sub-§45, ¶A-1, as amended by PL 2007, c. 438, §45, is repealed.

Sec. 5. 36 MRSA §1760, sub-§87, as amended by PL 2009, c. 627, §6 and affected by §12, is further amended to read:

87. Sales of tangible personal property and transmission and distribution of electricity to qualified development zone businesses. Beginning July 1, 2005, sales of tangible personal property, and of the transmission and distribution of electricity, to a qualified Pine Tree Development Zone business, as defined in Title 30-A, section 5250-I, subsection 17, for use directly and primarily in one or more qualified business activities, as defined in Title 30-A, section 5250-I, subsection 16. The exemption provided by this subsection is limited for each qualified Pine Tree Development Zone business to sales occurring within a period of 10 years in the case of a business located in a tier 1 location, as defined in Title 30-A, section 5250-I, subsection 21-A, and 5 years in the case of a business located in a tier 2 location, as defined in Title 30-A, section 5250-I, subsection 21-B, from the date the business is certified pursuant to Title 30-A, section 5250-O or until December 31, 2028, whichever occurs first. As used in this subsection, "primarily" means more than 50% of the time during the period that begins on the date on which the property is first placed in service by the purchaser and ends 2 years from that date or at the time the property is sold, scrapped, destroyed or otherwise permanently removed from service by the purchaser, whichever occurs first.

Sec. 6. 36 MRSA §1760-D, as enacted by PL 2009, c. 632, §2, is amended to read:

§1760-D. Exemptions of certain products; information posted on publicly accessible website

1. List of products. The assessor shall post on the bureau's publicly accessible website, and update quarterly, a list of products used in commercial agricultural or silvicultural crop production or in animal agriculture for agricultural production with respect to which the assessor has made a written definitive de-

termination on the applicability of a sales tax exemption under section 1760, subsection 7-B or 7-C ~~has been made on the bureau's publicly accessible website and of items of depreciable machinery and equipment that the assessor has determined may be eligible for a refund of sales tax under section 2013. The~~ In the case of products exempt from tax under section 1760, subsection 7-B or 7-C, the list must include the name of the product; and any other information necessary to identify the product at the point of sale and the determination of whether or not that product is exempt from sales tax under section 1760, subsection 7-B or 7-C.

When the assessor receives a request in writing for an ~~interpretation on a determination as to~~ whether or not a product used in commercial agricultural or silvicultural crop production or in animal agriculture agricultural production is exempt from sales tax under section 1760, subsection 7-B or 7-C, the assessor shall respond in writing. ~~When the information in the request is sufficient to make a definitive determination on the applicability of the sales tax exemption, the assessor shall within 3 weeks of making the determination add the appropriate information to the list maintained under this section.~~

2. Information on procedures for appeals and refunds. The assessor shall provide information on the bureau's publicly accessible website ~~on regarding the process to appeal a determination on the applicability of an exemption to a product under section 1760, subsection 7-B or 7-C and to request a refund for sales tax paid on an exempt product.~~ procedures for:

A. Requesting a refund of sales tax paid on an exempt product;

B. Appealing an assessment of tax liability; and

C. Appealing the denial of an exemption certificate or refund request under section 2013.

Sec. 7. 36 MRSA §1951-A, as amended by PL 2007, c. 539, Pt. KKK, §1, is further amended to read:

§1951-A. Collection of tax; report to State Tax Assessor

1. Monthly report and payment. Every retailer shall file with the State Tax Assessor, on or before the 15th day of each month, a return made under the penalties of perjury on a form prescribed by the assessor. The return must report the total sale price of all sales made during the preceding calendar month and such other information as the assessor requires. The assessor may permit the filing of returns other than monthly. The assessor, by rule, may waive reporting nontaxable sales. ~~Upon application of a retailer, the assessor shall issue a classified permit establishing the percentage of exempt sales. The classified permit may be amended or revoked if the assessor determines that the percentage of exempt sales is inaccurate. The as-~~

essor may for good cause extend for not more than 30 days the time for filing returns required under this Part. Every person subject to the use tax shall file similar returns, at similar dates, and pay the tax or furnish a receipt for the ~~same tax~~ from a registered retailer.

3. Reporting tax on casual rentals on individual income tax returns. ~~A person~~ An individual whose only sales tax collection responsibility under this Title is the collection of sales tax on casual rentals of living quarters pursuant to section 1764 and whose sales tax liability in connection with those rentals during the period of the individual's income tax return is expected to be less than \$2,000 may report and pay that sales tax on the ~~person's individual's~~ Maine ~~individual~~ income tax return for that year in lieu of filing ~~reports~~ returns under subsection 1. If the ~~person's~~ individual's actual sales tax liability ~~for the year in connection with those rentals is \$2,000 or more for that year,~~ the ~~person~~ individual must file ~~reports~~ returns as required under subsection 1 during the succeeding year.

Sec. 8. 36 MRSA §2013, sub-§4, as enacted by PL 2009, c. 632, §3, is amended to read:

4. Information on processes for refunds and appeals. The assessor shall post information describing the process for requesting a refund under this section on the bureau's publicly accessible website along with a description of the process to appeal a ~~decision by the assessor under section 2011~~ denial of refund request.

Sec. 9. 36 MRSA §4361, sub-§1-B is enacted to read:

1-B. Delivery sale. "Delivery sale" means a sale of cigarettes to a consumer in this State when:

A. The purchaser submits the order for the sale by means of telephonic or other electronic method of voice transmission, the Internet or a delivery service; or

B. The cigarettes are delivered by use of a delivery service.

Sec. 10. 36 MRSA §4361, sub-§2, as amended by PL 1997, c. 458, §1, is further amended to read:

2. Distributor. "Distributor" means any person engaged in this State in the business of producing or manufacturing cigarettes in this State, importing cigarettes into this State, making delivery sales or making wholesale purchases or sales of cigarettes in this State on which the tax imposed by this chapter has not been paid.

Sec. 11. 36 MRSA §4401, sub-§1-A is enacted to read:

1-A. Delivery sale. "Delivery sale" means a sale of tobacco products to a consumer in this State when:

A. The purchaser submits the order for the sale by means of telephonic or other electronic method of voice transmission, the Internet or a delivery service; or

B. The tobacco products are delivered by use of a delivery service.

Sec. 12. 36 MRSA §4401, sub-§2, as amended by PL 2005, c. 627, §1, is further amended to read:

2. Distributor. "Distributor" means ~~any~~ a person engaged in the business of producing or manufacturing tobacco products in this State for sale in this State, ~~any~~ a person engaged in the business of selling tobacco products in this State who brings, or causes to be brought, into this State any tobacco products for sale to a retailer ~~or any~~, a person engaged in the business of selling tobacco products who ships or transports tobacco products to retailers for sale in this State ~~or any~~, a retailer who imports, receives or acquires, from a person other than a licensed distributor, tobacco products for sale within the State or a person who makes delivery sales.

Sec. 13. 36 MRSA §5333, sub-§1, as enacted by PL 2003, c. 452, Pt. U, §18 and affected by Pt. X, §2, is amended to read:

1. False tax return or other document. A person who knowingly ~~makes and subscribes any files a~~ return, statement or other document that contains or is verified by a ~~written~~ declaration that it is made under the penalties of perjury that the person does not believe to be true and correct ~~as to~~ in every material ~~mat-ter~~ respect or who knowingly aids or procures the preparation or presentation in a matter arising under this Part of a return, affidavit, claim or other document that is fraudulent or is false ~~as to~~ in any material ~~mat-ter~~ respect commits a Class D crime.

Sec. 14. Certain classified permits grandfathered. A classified permit issued by the State Tax Assessor pursuant to the Maine Revised Statutes, Title 36, section 1951-A that is valid on the effective date of this Act remains in force until it is relinquished or revoked under the laws and rules that existed on the day preceding the effective date of this Act.

Sec. 15. Retroactivity. That section of this Act that repeals and replaces the Maine Revised Statutes, Title 36, section 1760, subsection 25, paragraph B applies retroactively to August 1, 2010. That section of this Act that repeals Title 36, section 1760, subsection 45, paragraph A-1 applies retroactively to August 1, 2010. That section of this Act that amends Title 36, section 1760-D applies retroactively to July 12, 2010. That section of this Act that amends Title

36, section 2013, subsection 4 applies retroactively to July 12, 2010.

See title page for effective date.

CHAPTER 286

H.P. 1145 - L.D. 1560

An Act To Update Professional and Occupational Licensing Statutes

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

PART A

Sec. A-1. 9 MRSA §5003, sub-§3, as amended by PL 2007, c. 402, Pt. A, §2, is further amended to read:

3. Commercial co-venturer. "Commercial co-venturer" means any person or entity who, for profit, is regularly and primarily engaged in trade or commerce in this State, other than in connection with the raising of funds for charitable organizations or purposes, and who conducts a sale, performance, event or collection and sale of donated goods that is advertised in conjunction with the name of any charitable organization. Any such person or entity who will benefit in good will only may not be considered a commercial co-venturer if the collection and distribution of the proceeds of the sale, performance or event, or the collection and sale of donated goods, are supervised and controlled by the benefiting charitable organization. Any such person or entity whose annual contributions to charitable organizations do not exceed \$10,000 is exempt from the licensure requirement under section 5002.

Sec. A-2. 9 MRSA §5003, sub-§9, as amended by PL 2003, c. 541, §4, is further amended to read:

9. Professional fund-raising counsel. "Professional fund-raising counsel" means any person or entity who is retained, for compensation, by a charitable organization to plan, manage, advise or provide consultation services with respect to the solicitation in this State of contributions, but who does not solicit contributions, has neither custody nor control of contributions and does not directly or indirectly employ, procure or engage any person or entity compensated to solicit contributions. A bona fide nontemporary salaried officer or employee of a charitable organization is not considered to be a professional fund-raising counsel. An attorney, investment counselor or banker who advises any person to make a contribution to a charitable organization is not, as the result of such advice, a professional fund-raising counsel.