

# 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.**

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**Augusta, Maine**  
**2011**

year 2003 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A and are subject to review by the joint standing committee of the Legislature having jurisdiction over ~~business and economic development~~ environmental and natural resources matters.

**Sec. 5. 32 MRSA §1872, sub-§2**, as enacted by PL 1989, c. 585, Pt. D, §§9 and 11, is amended to read:

**2. Penalty.** ~~Following the 1st year warning period, a~~ violation of this section is a civil violation for which a forfeiture of ~~\$20~~ \$100 per container in excess of 48 beverage containers may be adjudged.

**Sec. 6. 32 MRSA §1872, sub-§3-A** is enacted to read:

**3-A. Private right of action; containers not originally sold in the State.** An initiator of deposit may maintain a civil action in Superior Court against a person, other than a local redemption center licensed in accordance with section 1871-A, in possession of more than 48 beverage containers that the person knows or has reason to know were not originally sold in this State as filled beverage containers. If the initiator of deposit prevails in any action, the initiator of deposit is entitled to an award of reasonable attorney's fees and court costs, including expert witness fees.

**Sec. 7. 38 MRSA §2201, first ¶**, as amended by PL 1995, c. 465, Pt. A, §72 and affected by Pt. C, §2, is further amended to read:

The Maine Solid Waste Management Fund, referred to in this section as the "fund," is established as a nonlapsing fund to support programs administered by the State Planning Office and the Department of Environmental Protection. The fund must be segregated into 2 subsidiary accounts. The first subsidiary account, called operations, receives all fees established and received under article 1. The 2nd subsidiary account, called administration, receives all fees established under this article and under Title 36, chapter 719; ~~and all funds recovered by the department as reimbursement for departmental expenses incurred to abate imminent threats to public health, safety and welfare posed by the illegal disposal of solid waste and all unclaimed deposits returned to the State under Title 32, chapter 28.~~

**Sec. 8. Rulemaking; commingling agreements; plastic bags; redemption center locations.** By January 15, 2012, the Department of Agriculture, Food and Rural Resources shall undertake rulemaking in accordance with this section. The rulemaking must be in accordance with the Maine Revised Statutes, Title 5, chapter 375, and rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**1. Commingling agreements.** The department shall amend its rules regarding commingling agreements in accordance with Title 32, section 1866, subsection 4, paragraph C.

**2. Plastic bags.** The department shall adopt rules regarding the size and gauge of plastic bags used by a dealer or redemption center as provided for in Title 32, section 1866, subsection 5.

**3. Redemption center locations.** The department shall adopt rules regarding the licensing of redemption centers in accordance with the population requirements in Title 32, section 1871-A, subsection 3.

**Sec. 9. Effective date.** That section of this Act that amends the Maine Revised Statutes, Title 32, section 1866, subsection 4, paragraph C takes effect July 1, 2012.

See title page for effective date, unless otherwise indicated.

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## CHAPTER 430

### H.P. 334 - L.D. 441

#### An Act To Reform Telecommunications Taxation

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

**Sec. 1. 36 MRSA §457**, as amended by PL 2009, c. 213, Pt. P, §1 and affected by §3, is further amended to read:

#### §457. State telecommunications excise tax

**1. Definitions.** As used in this section ~~subchapter~~, unless the context otherwise indicates, the following terms have the following meanings.

A. "Telecommunications business" means a person engaged in the activity of providing interactive 2-way communication services for compensation.

B. ~~"Telecommunications personal property~~ Qualified telecommunications equipment" means ~~personal property equipment~~ used for the transmission of any interactive 2-way communications, including voice, image, data and information, via a medium such as wires, cables, microwaves, radio waves, light waves or any combination of those or similar media. ~~"Telecommunications personal property~~ Qualified telecommunications equipment" includes ~~qualifying property equipment~~ used to provide telegraph service. ~~"Telecommunications personal property~~ Qualified telecommunications equipment" does not include ~~property equipment~~ used solely to provide value-added nonvoice services in which computer proc-

essing applications are used to act on the form, content, code and protocol of the information to be transmitted, unless those services are provided under a tariff approved by the Public Utilities Commission. "~~Telecommunications personal property~~ Qualified telecommunications equipment" does not include single or multiline standard telephone instruments. Notwithstanding section 551, "~~telecommunications personal property qualified telecommunications equipment~~" includes any interest of a telecommunications business in poles.

C. "Distribution facilities" means facilities used primarily to transport communications between fixed locations, including but not limited to cables, wires, wireless transmitters and utility poles.

**2. Tax imposed.** A state tax is imposed on telecommunications personal property at the rate provided in this subsection times the just value of the property. Just value and ownership of the property must be determined as of the April 1st preceding the assessment. The rate of tax is:

- A. For assessments made in 2004, 26 mills;
- B. For assessments made in 2005, 25 mills;
- C. For assessments made in 2006, 24 mills;
- D. For assessments made in 2007, 23 mills;
- E. For assessments made in 2008, 22 mills;
- F. For assessments made in 2009, 22 mills;
- G. For assessments made in 2010, 22 mills;
- H. For assessments made in 2011, 22 mills;
- I. For assessments made in 2012, 19 mills; and
- J. For assessments made in 2013 and subsequent years, 18 mills.

**2-A. Excise tax levied.** An excise tax is levied on a telecommunications business at the rate provided in this subsection times the just value of the qualified telecommunications equipment for the privilege of operating within the State as follows:

- A. Just value of the qualified telecommunications equipment must be determined pursuant to section 701-A as of the April 1st preceding the assessment; and
- B. The rate of tax is 19.2 mills for assessments made in 2012. For assessments made in 2013 and subsequent years, the State Tax Assessor shall apply the tax rate of the municipality or unorganized territory in which the qualified telecommunications equipment is located to the just value of the equipment as adjusted by the municipality's or unorganized territory's certified assessment ratio.

**3-A. Returns to State Tax Assessor prior to July 1, 2012.** ~~Each~~ Prior to July 1, 2012, each telecommunications business owning or leasing ~~telecommunications personal property qualified telecommunications equipment~~ that on the first day of April in any year is situated, whether permanently or temporarily, within this State shall, on or before the 20th day of April in that year, return to the State Tax Assessor a complete list of such ~~property equipment~~ on a form to be furnished by the State Tax Assessor.

**3-B. Returns to State Tax Assessor beginning July 1, 2012.** Beginning July 1, 2012, each telecommunications business owning or leasing qualified telecommunications equipment on April 1, 2012 and annually thereafter shall, on or before December 31, 2012 and annually thereafter, return to the State Tax Assessor a complete list of such equipment and each municipality or unorganized territory where any such equipment is situated on the first day of April on a form to be furnished by the State Tax Assessor.

**4. Assessment.** The State Tax Assessor shall assess a tax on ~~telecommunications personal property qualified telecommunications equipment~~ owned or leased by a telecommunications business. ~~Telecommunications personal property~~ Qualified telecommunications equipment owned or leased by a person that is not a telecommunications business must be assessed a tax by the municipal assessor in the municipality in which the ~~property equipment~~ is located on April 1st of the taxable year. The date of assessment of ~~telecommunications personal property qualified telecommunications equipment~~ by municipalities must be consistent with ~~other~~ property subject to property taxation by the municipalities.

**5-B. Procedure.** The excise tax on ~~telecommunications personal property qualified telecommunications equipment~~ of a telecommunications business must be assessed and paid in accordance with this subsection.

A. ~~The~~ Prior to July 2012, the State Tax Assessor shall make the assessment by May 30th of each year. After July 1, 2012, the State Tax Assessor shall make the assessment by March 30, 2013 and by March 30th annually thereafter.

C. The tax assessment must be paid no later than the August 15th following the date of assessment.

**7. Collection.** Taxes assessed under this section by the State Tax Assessor must be enforced as generally provided by this Title. Taxes assessed under this section by municipal assessors must be enforced in the same way as ~~other~~ locally assessed personal property taxes.

**9. Appeal.** A taxpayer receiving an assessment under this section may appeal a decision of the State Tax Assessor in the manner set forth in section 151.

**Sec. 2. 36 MRSA §458**, as enacted by PL 1987, c. 507, §1, is amended to read:

**§458. Continuation of exemption**

~~Telecommunications personal property~~ Qualified telecommunications equipment subject to taxation under this chapter ~~shall continue~~ must be assessed through application of a state excise tax in lieu of a state property tax and continues to be exempt from ordinary local property taxation as formerly provided under section 2696. It is the intent of the Legislature that this section not be considered a new property tax exemption requiring state reimbursement under the Constitution of Maine, Article IV, Part Third, Section 23.

**Sec. 3. Rules.** The Department of Administrative and Financial Services, Bureau of Revenue Services shall adopt routine technical rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A to implement the provisions of this Act. In developing rules, the bureau must include provisions for reporting the location of the qualified telecommunications equipment, which include a method for allowing a telecommunications business to apportion the values of distribution facilities among municipalities. The bureau shall establish a method of valuing qualified telecommunications equipment and procedures for the declaration of value of the qualified telecommunications equipment established in Title 36, Part 2 consistent with methods in place on January 1, 2011. In establishing a method of valuing qualified telecommunications equipment, the bureau may develop average age and depreciation formulas for classes of equipment.

**Sec. 4. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 36, chapter 103, subchapter 2, in the subchapter headnote, the words "assessment of state property taxes" are amended to read "assessment of state property and excise taxes" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

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**CHAPTER 431  
H.P. 70 - L.D. 82**

**An Act To Amend the Laws  
Governing County Jail  
Budgeting for York County**

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

**Sec. 1. 30-A MRSA §701, sub-§2-A**, as amended by PL 2009, c. 1, Pt. Q, §1, is further amended to read:

**2-A. Tax assessment for correctional services.**

The counties shall annually collect no more and no less than ~~\$62,452,804~~ \$62,172,371 from municipalities for the provision of correctional services, excluding debt service, in accordance with this subsection.

The assessment to municipalities within each county may not be greater or less than the fiscal year 2007-08 county assessment for correctional-related expenditures, which is:

- A. A sum of \$4,287,340 in Androscoggin County;
- B. A sum of \$2,316,666 in Aroostook County;
- C. A sum of \$11,575,602 in Cumberland County;
- D. A sum of \$1,621,201 in Franklin County;
- E. A sum of \$1,670,136 in Hancock County;
- F. A sum of \$5,588,343 in Kennebec County;
- G. A sum of \$3,188,700 in Knox County;
- H. A sum of \$3,018,361 in Lincoln County;
- I. A sum of \$1,228,757 in Oxford County;
- J. A sum of \$5,919,118 in Penobscot County;
- K. A sum of \$878,940 in Piscataquis County;
- L. A sum of \$2,295,849 in Sagadahoc County;
- M. A sum of \$5,363,665 in Somerset County;
- N. A sum of \$2,832,353 in Waldo County;
- O. A sum of \$2,000,525 in Washington County; and
- P. A sum of ~~\$8,667,248~~ \$8,386,815 in York County.

Notwithstanding this subsection, the county assessment for correctional services-related expenditures in Somerset County must be set at the fiscal year 2009-10 level when the new Somerset County Jail is open and operating at a level sufficient to sustain the average daily number of inmates from Somerset County.

For the purposes of this subsection, "correctional services" includes the management services, personal services, contractual services, commodity purchases, capital expenditures and all other costs, or portions thereof, necessary to maintain and operate correctional services.

**Sec. 2. Effective date.** This Act takes effect July 1, 2013.

Effective July 1, 2013.

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