

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2012 to July 10, 2013

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 9, 2013

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

Augusta, Maine
2013

A seller who meets the requirements of this paragraph shall register with the assessor and collect and remit taxes in accordance with the provisions of this Part. A seller may rebut the presumption created in this paragraph by demonstrating that the person's activities in the State are not significantly associated with the seller's ability to establish or maintain a market in this State for the seller's sales.

C. A seller that does not otherwise meet the requirements of paragraph B is presumed to be engaged in the business of selling tangible personal property or taxable services for use in this State if the seller enters into an agreement with a person under which the person, for a commission or other consideration, while within this State:

(1) Directly or indirectly refers potential customers, whether by a link on an Internet website, by telemarketing, by an in-person presentation or otherwise, to the seller; and

(2) The cumulative gross receipts from retail sales by the seller to customers in the State who are referred to the seller by all persons with this type of an agreement with the seller are in excess of \$10,000 during the preceding 12 months.

A seller who meets the requirements of this paragraph shall register with the assessor and collect and remit taxes in accordance with the provisions of this Part.

A seller may rebut the presumption created in this paragraph by submitting proof that the person with whom the seller has an agreement did not engage in any activity within the State that was significantly associated with the seller's ability to establish or maintain the seller's market in the State during the preceding 12 months. Such proof may consist of sworn, written statements from all of the persons within this State with whom the seller has an agreement stating that they did not engage in any solicitation in the State on behalf of the seller during the preceding 12 months; these statements must be provided and obtained in good faith.

A person who enters into an agreement with a seller under this paragraph to refer customers by a link on an Internet website is not required to register or collect taxes under this Part solely because of the existence of the agreement.

Sec. 5. Report and legislation regarding the Streamlined Sales and Use Tax Agreement.

The Office of Fiscal and Program Review shall prepare a report concerning the Streamlined Sales and Use Tax Agreement, referred to in this section as "the agreement," which is an effort of state governments, with input from local governments and the private

sector, to simplify and modernize sales and use tax collection and administration. The report must:

1. Provide information regarding any pending or recently enacted federal legislation that provides states with the authority to compel remote sellers, such as online and catalogue retailers, to collect and remit sales tax imposed on purchases made by residents of another state;

2. Identify the options available to Maine under the federal legislation referred to in subsection 1 and the steps needed in order to compel remote sellers to collect sales tax and remit the tax to Maine;

3. Identify any changes to the Maine Revised Statutes that are needed to conform the State's laws to the agreement and the options available to provide conformity;

4. Identify the impact of each option identified pursuant to subsection 3; and

5. Identify and explain any fiscal and policy issues associated with conformity with the agreement.

The Office of Fiscal and Program Review may enlist the assistance of an entity outside of the Legislature to aid the office in completion of the report. The office shall submit its report, along with different proposals for legislation to conform the State's sales and use tax laws with the agreement, to the Joint Standing Committee on Taxation no later than January 15, 2014. The Joint Standing Committee on Taxation may submit a bill relating to the subject matter of the report to the Second Regular Session of the 126th Legislature.

Sec. 6. Application. The provisions of the Maine Revised Statutes, Title 36, section 1754-B, subsection 1-A, paragraph C apply to sales made, uses occurring and services rendered on or after the effective date of this Act regardless of the date on which the seller and the person entered into the agreement described in that paragraph; except that, when calculating the 12-month period for purposes of determining whether the threshold amount specified in Title 36, section 1754-B, subsection 1-A, paragraph C, subparagraph (2) has been met, the 12-month period begins one year immediately preceding the seller's registering as a retailer pursuant to this Act.

See title page for effective date.

CHAPTER 201

H.P. 623 - L.D. 900

An Act Regarding the Disclosure of Certain Records in Criminal Matters

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

Sec. 1. 5 MRSA §7070, sub-§5 is enacted to read:

5. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, this section does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.

Sec. 2. 30-A MRSA §503, sub-§3 is enacted to read:

3. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, this section does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.

Sec. 3. 30-A MRSA §2702, sub-§3 is enacted to read:

3. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, this section does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related

proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.

See title page for effective date.

CHAPTER 202

S.P. 223 - L.D. 633

**An Act To Grant the
Commissioner of Health and
Human Services and the
Commissioner's Designees the
Independent Authority To
Issue Adjudicatory Subpoenas**

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

Sec. 1. 22-A MRSA §207, sub-§10 is enacted to read:

10. Adjudicatory subpoena power. In an adjudicatory proceeding conducted by the department, the commissioner may issue subpoenas to require the attendance and testimony of witnesses and the production of evidence or discovery relating to an issue of fact in the proceeding and may designate employees of the department to issue such subpoenas. Subpoenas must be issued in accordance with Title 5, section 9060.

See title page for effective date.

CHAPTER 203

S.P. 51 - L.D. 130

**An Act To Stabilize Education
Funding by Reducing the
Impact of Changes in Property
Valuation**

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

Sec. 1. 20-A MRSA §15672, sub-§23, as amended by PL 2005, c. 2, Pt. D, §36 and affected by §§72 and 74 and affected by c. 12, Pt. WW, §18, is repealed and the following enacted in its place:

23. Property fiscal capacity. "Property fiscal capacity" means:

A. Prior to fiscal year 2014-15, the certified state valuation for the year prior to the most recently certified state valuation.

B. For fiscal year 2014-15, the average of the certified state valuations for the 2 most recent years