

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 7, 2016 to August 2, 2017**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**NOVEMBER 1, 2017**

**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**  
**2017**

requirement into question. Accordingly, the Legislature intends to clarify that the obligations created by the imposition of this requirement would be appropriately stayed by the courts until the constitutionality of this law has been clearly established by a binding judgment, including, for example, a decision from the Supreme Court of the United States abrogating its existing doctrine or a final judgment applicable to a particular taxpayer.

**2. Legislative intent.** It is the intent of the Legislature to apply the sales and use tax obligations imposed under the laws of this State to the limit of federal and state constitutional doctrines and to thereby clarify that the laws of this State permit the State to immediately argue in any litigation that such constitutional doctrine should be changed to permit the tax collection obligations of this section.

**3. Collection of tax by remote seller.** Notwithstanding any provision of law to the contrary, a person selling tangible personal property, products transferred electronically or services for delivery into this State is subject to the provisions of this Part and shall collect and remit the sales tax imposed pursuant to section 1811 in the same manner as a retailer that has a physical presence in this State if:

A. The person's gross revenue from delivery of tangible personal property, products transferred electronically or services that are taxable by this State into this State in the previous calendar year or current calendar year exceeds \$100,000; or

B. The person sold tangible personal property, products transferred electronically or services that are taxable by this State for delivery into this State in at least 200 separate transactions in the previous calendar year or the current calendar year.

**4. Declaratory judgment action.** Notwithstanding any other provision of law, and regardless of whether the State initiates an audit or other tax collection procedure, the State may bring a declaratory judgment action pursuant to Title 14, chapter 707 against any person the State believes meets the criteria of subsection 3 to establish that the tax collection obligation is applicable and valid under state and federal law. The court shall act on this declaratory judgment action as expeditiously as possible, and the court shall proceed with priority over any other action presenting the same question in any other venue.

**5. Effect of court action on collection of tax; injunction.** During a pending action pursuant to subsection 4, and upon determining that a question is presented regarding the constitutionality of this law, the court, on the State's motion or the court's own initiative, shall enjoin the State from enforcing the obligation in subsection 3 against any person subject to subsection 3 that does not affirmatively consent or other-

wise collect the sales or use tax on a voluntary basis. The injunction does not apply if there is a previous judgment from a court establishing the validity of the obligation in subsection 3 with respect to the particular taxpayer.

**6. Appeal.** Any appeal from a decision with respect to the cause of action established by this section may only be made to the Supreme Judicial Court sitting as the Law Court. The Law Court shall hear and decide the appeal as expeditiously as possible.

**7. No retroactive application of tax.** The obligation to collect and remit the sales and use tax required by this section may not be applied retroactively.

**8. Prospective application of tax following injunction.** If an injunction imposed pursuant to subsection 5 is lifted, the State shall assess and apply the sales or use tax collection obligation only from that date forward with respect to any person covered by the injunction.

**Sec. 2. Effective date.** This Act takes effect October 1, 2017.

See title page for effective date.

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## CHAPTER 246

### H.P. 575 - L.D. 795

#### An Act To Improve Voter Access to Information Regarding Referendum Questions on the Ballot

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

**Sec. 1. 21-A MRSA §651, sub-§2, ¶B,** as enacted by PL 2011, c. 342, §22, is amended to read:

B. Outside the guardrail enclosure at each voting place:

- (1) At least one voting instruction poster prepared under section 605-A;
- (2) One set of sample ballots for each ballot style being used in that voting place;
- (3) A list of any declared write-in candidates for that voting district, with the office sought, next to the sample ballots;
- (4) One voting rights poster or notice prepared under section 605-A;
- (5) One election penalty poster or notice prepared under section 605-A;
- (6) One Treasurer's Statement prepared under Title 5, section 152;

(7) One copy, or more as determined necessary by the clerk, of the citizen's guide to the referendum election prepared under section 605-A. The clerk shall post, in a conspicuous and public area, a notification indicating that the citizen's guide provides helpful information regarding referendum questions on the ballot and where the guide is located in the voting place for voters to read; and

(8) One copy of the Office of Fiscal and Program Review's estimate of the fiscal impact prepared under Title 1, section 353.

See title page for effective date.

## CHAPTER 247 H.P. 469 - L.D. 678

### An Act To Protect Students from Identity Theft

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

Sec. 1. 20-A MRSA §6001-C is enacted to read:

#### §6001-C. Student social security numbers; collection and deletion

1. Collection of social security number. If a school administrative unit, a public school within a school administrative unit or a private school requests a student's social security number, the unit or school shall inform the parent or legal guardian of that student or the student if the student is 18 years of age or older for what purpose the social security number will be used and provide the parent, legal guardian or student if the student is 18 years of age or older the opportunity to opt out of providing the social security number.

2. Deletion of social security number. A school administrative unit, a public school within a school administrative unit or a private school that collects a student's social security number shall delete the student's social security number from the student's records once the student is no longer enrolled in the school administrative unit, the public school within a school administrative unit or private school.

See title page for effective date.

## CHAPTER 248 S.P. 471 - L.D. 1384

### An Act To Amend the Election Laws

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

Sec. 1. 21-A MRSA §144, first ¶, as amended by PL 2001, c. 310, §7, is further amended to read:

A voter may change the voter's enrollment ~~anytime~~ after 3 months from the date on which the voter enrolled by filing an application with the registrar personally, by mail or otherwise. When a voter files an application to change enrollment on the day of a primary election, the application is deemed received the following business day.

Sec. 2. 21-A MRSA §144, sub-§1, as amended by PL 2005, c. 453, §26, is further amended to read:

1. **Content of application.** The application must contain the following information: Name of applicant, the date of birth, residence address, ~~voting district, name of party in which enrolled,~~ name of party in which enrollment is requested, signature of the applicant and the date of application.

Sec. 3. 21-A MRSA §145, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

A voter may withdraw ~~his~~ the voter's enrollment ~~anytime~~ after 3 months from the date on which ~~he~~ the voter enrolled by filing a written request with the registrar. When a voter files an application to withdraw enrollment on the day of a primary election, the application is deemed received the following business day.

Sec. 4. 21-A MRSA §311, sub-§1, as amended by PL 2005, c. 387, §3, is further amended to read:

1. **Call.** The caucus may be called by the chair or a majority of the members of the municipal committee of a political party. If the municipal committee fails to call a caucus, the county committee may call the caucus. At the request of that committee municipal officers shall provide available space in a public building for a caucus. The municipality may charge a rental fee or janitorial service fee for the available space. A municipality may hold its caucus outside the municipality if several municipalities elect to meet on a consolidated basis or if the committee calling the caucus determines that a facility outside the municipality is more suitable.

Sec. 5. 21-A MRSA §723, sub-§1, ¶A, as amended by PL 2009, c. 253, §38, is further amended to read: