

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTIETH LEGISLATURE

SECOND SPECIAL SESSION
September 29, 2021

SECOND REGULAR SESSION
January 5, 2022 to May 9, 2022

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 29, 2021

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 8, 2022

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

Augusta, Maine
2022

DEPARTMENT TOTAL - \$0 (\$380,000)
ALL FUNDS

**MARINE RESOURCES, DEPARTMENT OF
Lobster Legal Defense Fund N946**

Initiative: Provides ongoing allocations to support the State's lobster industry by reimbursing a statewide association of individuals engaged in commercial lobster fishing and the labor union representing individuals engaged in commercial lobster fishing in the State for legal costs incurred and paid in legal proceedings involving the regulations of the United States Department of Commerce, National Oceanic and Atmospheric Administration implementing the Atlantic Large Whale Take Reduction Plan.

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	\$0	\$380,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$380,000

MARINE RESOURCES, DEPARTMENT OF DEPARTMENT TOTALS	2021-22	2022-23
OTHER SPECIAL REVENUE FUNDS	\$0	\$380,000
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$380,000

SECTION TOTALS	2021-22	2022-23
OTHER SPECIAL REVENUE FUNDS	\$0	\$0
SECTION TOTAL - ALL FUNDS	\$0	\$0

See title page for effective date.

CHAPTER 756

S.P. 671 - L.D. 1937

An Act To Clarify the Exemption from Income Tax and Withholding Tax Liability for Certain Out-of-state Suppliers of Spirits Purchased by the Bureau of Alcoholic Beverages and Lottery Operations

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

Sec. 1. 36 MRS-A §5202-D is enacted to read:

§5202-D. Exemption for certain out-of-state suppliers of spirits sold to the Bureau of Alcoholic Beverages and Lottery Operations

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

A. "Bureau" means the Bureau of Alcoholic Beverages and Lottery Operations within the Department of Administrative and Financial Services and includes a contractor or agent of the bureau.

B. "Spirits" has the same meaning as in Title 28-A, section 2, subsection 31.

2. No tax liability or nexus for sale, shipment or storage of spirits. For tax years beginning on or after January 1, 2022, a person domiciled in another state that approves an order or request from outside this State for spirits placed by the bureau is not liable under this Part and may not be considered to have a sufficient nexus to impose liability for any tax imposed pursuant to this Part or to require a pass-through entity to withhold tax for any tax imposed pursuant to this Part based solely on the following in-state activities:

A. The sale of spirits to the bureau, regardless of whether the amount of the sales exceeds the thresholds for nexus specified in section 5200-B, subsection 1;

B. The shipment of spirits from outside this State to any warehouse operated or used by the bureau or to another facility as directed by the bureau;

C. The storage of spirits at any warehouse operated by or used by the bureau or at another facility as directed by the bureau, regardless of whether the value of those spirits exceeds the thresholds for nexus specified in section 5200-B, subsection 1; or

D. Any other activity required by the bureau in order to facilitate the fulfillment of orders of spirits placed by the bureau.

Spirits manufactured or produced outside this State and brought into this State based on an order or request of the bureau when such order or request is approved from outside this State are not subject to tax liability under this Part notwithstanding any delay in transfer of title for those spirits or storage of those spirits at a warehouse operated or used by the bureau pending the transfer of title to the bureau.

3. Effect on protection or exemption from taxation due to other laws. This section may not be construed to reduce any protection or exemption from taxation that arises under 15 United States Code, Sections 381 to 384 or any other provision of law.

4. Rules. The assessor shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. Transfer from Liquor Operation Revenue Fund. Notwithstanding the Maine Revised Statutes, Title 30-A, section 6054, subsection 4 or any other provision of law to the contrary, and in addition to any amount authorized by law to be transferred in fiscal year 2022-23, the Maine Municipal Bond Bank shall transfer \$365,750 by June 30, 2023 from the Liquor Operation Revenue Fund, established in Title 30-A, section 6054, subsection 1, to the unappropriated surplus of the General Fund.

Sec. 3. Construction. This Act may not be construed to affect or be an indication of legislative intent regarding the income tax treatment of manufacturers or suppliers of spirits outside of this State that sold or shipped spirits into this State prior to January 1, 2022.

See title page for effective date.

CHAPTER 757

H.P. 1463 - L.D. 1968

An Act To Ensure Appropriate Placement of Defendants with Mental Illness and Intellectual Disabilities

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

Sec. 1. 15 MRSA §101-D, sub-§10 is enacted to read:

10. Appropriate placement. When a court commits the defendant to the custody of the Commissioner of Health and Human Services for placement in an appropriate institution for the care and treatment of persons with mental illness or in an appropriate residential program that provides care and treatment for persons who have intellectual disabilities or autism as set forth in subsection 4, the transfer of the defendant must take place within 30 days from the time the order is transmitted to the State Forensic Service, unless an extraordinary circumstance causes a necessary delay. The Commissioner of Health and Human Services shall notify the court of the extraordinary circumstance causing a delay.

See title page for effective date.

CHAPTER 758

H.P. 1512 - L.D. 2030

An Act To Provide for Reimbursement of the Sales Tax Paid on Certain Battery Energy Storage Systems

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

Sec. 1. 36 MRSA §2021 is enacted to read:

§2021. Refund of sales and use tax on purchases of battery energy storage systems

1. Definitions. For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Energy storage system" means commercial machinery or equipment that is capable of absorbing energy, storing the energy for a period of time and discharging the energy after it has been stored.

B. "Qualifying battery energy storage system" means an energy storage system that is a battery energy storage system with a capacity of 50 megawatts or greater that is located at a single site in the State, as evidenced by the interconnection agreement that applies to the battery energy storage system, and includes all parts and accessories that are integral to such a battery energy storage system.

2. Refund authorized. The assessor shall refund the sales or use tax imposed pursuant to this Part and paid by a person that purchases a qualifying battery energy storage system on or after January 1, 2023 and before December 31, 2025.

3. Procedure and limitations. A person that purchases a qualifying battery energy storage system and pays the tax imposed pursuant to this Part may submit a claim for reimbursement on a form prescribed by the assessor filed within 3 years of the payment of the sales or use tax to which the reimbursement relates, except that a claim for reimbursement may not be submitted prior to July 1, 2023.

4. Audit. The assessor may audit a claim for reimbursement filed under this section. If the assessor determines that the amount of the reimbursement was incorrect, the assessor may issue an assessment within 3 years from the date of purchase of the qualifying battery energy storage system or the date the claim was filed, whichever is later, or at any time if a fraudulent claim was filed. The claimant may seek reconsideration of the assessment pursuant to section 151.

5. Payment of claims. The assessor shall pay the reimbursement amount to the claimant within 30 days after receipt of a properly completed claim. Interest is not allowed on any payment made to a claimant pursuant to this section.

Sec. 2. Governor's Energy Office; energy storage tax incentive report. The Governor's Energy Office shall examine the role of existing and potential tax incentives in achieving the objectives established in the Maine Revised Statutes, Title 35-A, section 3145 and shall provide a report on these matters to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters by March 15, 2023. The report must include a review of tax incentives for energy storage available from