

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTY-FIRST LEGISLATURE

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TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2024

**CHAPTER 672
S.P. 987 - L.D. 2271**

**An Act to Implement the
Recommendations of the Task
Force to Evaluate the Impact of
Facility Fees on Patients to
Improve Facility Fee
Transparency and Notification**

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

Sec. 1. 22 MRSA §1718-B, sub-§1, ¶A-1 is enacted to read:

A-1. "Facility fee" means a fee charged or billed by a health care entity for outpatient services provided in a hospital-based facility that is:

- (1) Intended to compensate the hospital or health system for the operational expenses of the hospital or health system; and
- (2) Separate and distinct from a professional fee.

Sec. 2. 22 MRSA §1718-B, sub-§1, ¶C is enacted to read:

C. "Hospital-based facility" means a facility that is owned or operated, in whole or in part, by a hospital or health system where hospital services or professional medical services are provided.

Sec. 3. 22 MRSA §1718-B, sub-§1, ¶D is enacted to read:

D. "Professional fee" means a fee charged or billed by a health care entity for professional medical services provided in a hospital-based facility.

Sec. 4. 22 MRSA §1718-B, sub-§2, ¶E is enacted to read:

E. A health care entity shall prominently display in a location that is readily accessible to a patient, including a patient waiting area, and on the health care entity's publicly accessible website the following information:

- (1) Whether the health care entity is a hospital-based facility and, if so, the name of the hospital or health system and whether the health care entity charges a facility fee; and
- (2) How to access the publicly accessible website of the Maine Health Data Organization established pursuant to chapter 1683 for educational materials about facility fees and whether and under what circumstances depending on payor and type of service a facility fee may be charged.

Sec. 5. 22 MRSA §8712, sub-§2-A, as enacted by PL 2023, c. 410, §1, is amended to read:

2-A. Facility fees charged by health care providers. By January 1, 2024, and annually thereafter, the organization shall produce and post on its publicly accessible website a report on the payments for facility fees made by payors to the extent that payment information is already reported to the organization. The organization shall submit the report required by this subsection to the Office of Affordable Health Care established in Title 5, section 3122 and the joint standing committee of the Legislature having jurisdiction over health data reporting and health insurance matters. The joint standing committee may report out legislation based on the report to a first regular or second regular session of the Legislature, depending on the year in which the report is submitted. The organization shall produce and post on its publicly accessible website information designed to educate the public about facility fees and whether and under what circumstances depending on payor and type of service a facility fee may be charged.

For the purposes of this subsection, unless the context otherwise indicates, the following terms have the following meanings.

A. "Facility fee" means any fee charged or billed by a health care provider for outpatient services provided in a hospital-based facility or freestanding emergency facility that is intended to compensate the health care provider for the operational expenses of the health care provider, separate and distinct from a professional fee, and charged or billed regardless of how a health care service is provided.

B. "Health care provider" means a person, whether for profit or nonprofit, that furnishes bills or is paid for health care service delivery in the normal course of business. "Health care provider" includes, but is not limited to, a health system, hospital, hospital-based facility, freestanding emergency facility or urgent care clinic.

See title page for effective date.

**CHAPTER 673
H.P. 1278 - L.D. 2000**

**An Act to Change the Taxation
of Rental Tangible Personal
Property to Make It Consistent
with the Predominant Method
in Other States' Rental
Industry Laws for Sales and
Use Tax**

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

Sec. 1. 23 MRSA §4210-B, sub-§7-A, as amended by PL 2023, c. 360, Pt. C, §1, is further amended to read:

7-A. Sales tax revenue. On July 1st of each year, the State Controller shall transfer to the Multimodal Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 100% of the revenue from the tax imposed on ~~the value of rental of a truck or van with a gross weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles~~ and the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the first 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund as described by Title 30-A, section 5681, subsection 5 and the transfer to the ATV Recreational Management Fund pursuant to Title 36, section 1820. On October 1st of each year, the State Controller shall transfer to the Multimodal Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 100% of the revenue from the tax imposed on ~~the value of rental of a truck or van with a gross weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles~~ and the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the last 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund as described by Title 30-A, section 5681, subsection 5 and the transfer to the ATV Recreational Management Fund pursuant to Title 36, section 1820. The tax amount must be based on actual sales for that fiscal year and may not consider any accruals that may be required by law.

Sec. 2. 36 MRSA §1752, sub-§5-D is enacted to read:

5-D. Lease or rental. "Lease or rental," "lease" or "rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration and may include future options to purchase the property or extend the lease or rental. "Lease or rental" includes a sublease and subrental.

"Lease or rental" does not include:

- A. Leases and contracts payable by rental or license fees for the right of possession and use when such leases and contracts are determined by the assessor to be in lieu of purchase;
- B. A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
- C. Providing tangible personal property along with a person to operate that property, for a fixed or indeterminate period of time, when that person is necessary for the tangible personal property to perform as designed and the person does more than

maintain, inspect or set up the tangible personal property; or

D. The lease or rental of property that is subject to the provisions of the service provider tax imposed pursuant to chapter 358.

The characterization of a transaction as a lease or rental under generally accepted accounting principles, the Code, the Uniform Commercial Code or other provisions of federal, state or local law does not affect a determination that a transaction is a lease or rental under chapters 211 to 225.

Sec. 3. 36 MRSA §1752, sub-§5-E is enacted to read:

5-E. Lessor. "Lessor" means a person who leases or rents tangible personal property located in this State to another person.

Sec. 4. 36 MRSA §1752, sub-§10, as amended by PL 2019, c. 401, Pt. B, §3, is further amended to read:

10. Retailer. "Retailer" means a person who makes retail sales or who is required to register by section 1754-B or who is registered under section 1756. "Retailer" includes a lessor.

Sec. 5. 36 MRSA §1752, sub-§11, ¶B, as amended by PL 2021, c. 578, §1, is further amended by repealing subparagraph (3).

Sec. 6. 36 MRSA §1752, sub-§11, ¶B, as amended by PL 2021, c. 578, §1, is further amended by repealing subparagraph (3-A).

Sec. 7. 36 MRSA §1752, sub-§11, ¶B, as amended by PL 2021, c. 578, §1, is further amended by repealing subparagraph (5).

Sec. 8. 36 MRSA §1752, sub-§11, ¶B, as amended by PL 2021, c. 578, §1, is further amended by amending subparagraph (9) to read:

(9) The sale of automobile repair parts used in the performance of repair services on an automobile pursuant to an extended service contract ~~sold on or after September 20, 2007~~ that entitles the purchaser to specific benefits in the service of the automobile for a specific duration;

Sec. 9. 36 MRSA §1752, sub-§11, ¶B, as amended by PL 2021, c. 578, §1, is further amended by amending subparagraph (16) to read:

(16) The sale, to a person engaged in the business of renting or leasing motor homes, as defined in Title 29-A, section 101, subsection 40, or camper trailers, of motor homes or camper trailers for rental as tangible personal property but not as the rental of living quarters; ~~or~~

Sec. 10. 36 MRSA §1752, sub-§11, ¶B, as amended by PL 2021, c. 578, §1, is further amended by amending subparagraph (17) to read:

(17) The sale of truck repair parts used in the performance of repair services on a truck pursuant to an extended service contract that entitles the purchaser to specific benefits in the service of the truck for a specific duration; ~~or~~

Sec. 11. 36 MRSA §1752, sub-§11, ¶B as amended by PL 2021, c. 578, §1, is further amended by enacting a new subparagraph (18) to read:

(18) The sale or lease or rental to a lessor that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C of tangible personal property for lease or rental.

Sec. 12. 36 MRSA §1752, sub-§13, as amended by PL 1981, c. 706, §20, is further amended to read:

13. Sale. "Sale" means any transfer, exchange or barter, in any manner or by any means whatsoever, for a consideration and includes leases and ~~contracts payable by rental or license fees for the right of possession and use, but only when such rentals, conditional sale contracts and any contract under which possession of the property is given to the purchaser but title is retained by the seller as security for the payment of the purchase price, and leases and contracts that are deemed determined by the State Tax Assessor~~ assessor to be in lieu of purchase. Each time period for which a lease or rental payment is charged is considered a separate sale.

Sec. 13. 36 MRSA §1752, sub-§14, ¶A, as amended by PL 2021, c. 578, §2, is further amended by amending subparagraph (4) to read:

(4) In the case of the lease or rental for a period of less than one year of an automobile ~~or of a truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles~~, the value is the total rental charged to the lessee and includes, but is not limited to, maintenance and service contracts, drop-off or pick-up fees, airport surcharges, mileage fees and any separately itemized charges on the rental agreement to recover the owner's estimated costs of the charges imposed by government authority for title fees, inspection fees, local excise tax and agent fees on all vehicles in its rental fleet registered in the State. All fees must be disclosed when an estimated quote is provided to the lessee; and

Sec. 14. 36 MRSA §1752, sub-§14, ¶B, as repealed and replaced by PL 2019, c. 501, §28, is amended by amending subparagraph (2) to read:

(2) Allowances in cash or by credit made upon the return of merchandise or services rejected pursuant to warranty;

Sec. 15. 36 MRSA §1752, sub-§14, ¶B, as repealed and replaced by PL 2019, c. 501, §28, is amended by amending subparagraph (3) to read:

(3) The price of property returned or services rejected by customers, when the full price is refunded either in cash or by credit;

Sec. 16. 36 MRSA §1752, sub-§14, ¶B, as repealed and replaced by PL 2019, c. 501, §28, is amended by amending subparagraph (12) to read:

(12) Federal universal service support funds that are paid directly to the seller pursuant to 47 Code of Federal Regulations, Part 54; ~~or~~

Sec. 17. 36 MRSA §1752, sub-§14, ¶B, as repealed and replaced by PL 2019, c. 501, §28, is amended by amending subparagraph (13) to read:

(13) A paint stewardship assessment imposed pursuant to Title 38, section 2144; ~~or~~

Sec. 18. 36 MRSA §1752, sub-§14, ¶B as repealed and replaced by PL 2019, c. 501, §28, is amended by enacting a new subparagraph (14) to read:

(14) For lease or rental payments, separately stated charges for sales of optional insurance coverage for the protection of the lessee or of the lessee's personal property, such as liability insurance, personal accident insurance or personal effects protection.

Sec. 19. 36 MRSA §1752, sub-§17-B, as amended by PL 2021, c. 578, §3, is further amended to read:

17-B. Taxable service. "Taxable service" means the rental of living quarters in a hotel, rooming house or tourist or trailer camp; the transmission and distribution of electricity; ~~the rental or lease of an automobile, a camper trailer, or a motor home, as defined in Title 29-A, section 101, subsection 40; the rental or lease of a truck or van with a gross vehicle weight of less than 26,000 pounds from a person primarily engaged in the business of renting automobiles;~~ the sale of an extended service contract on an automobile or truck that entitles the purchaser to specific benefits in the service of the automobile or truck for a specific duration; and the sale of prepaid calling service.

Sec. 20. 36 MRSA §1754-B, sub-§1-B, ¶A, as repealed and replaced by PL 2021, c. 181, Pt. B, §5, is amended by amending subparagraph (3) to read:

(3) Every lessor engaged in the leasing of tangible personal property located in this State that does not maintain a place of business in this State but makes retail sales ~~to purchasers from~~ in this State;

Sec. 21. 36 MRSA §1758, as repealed and replaced by PL 1999, c. 708, §24, is repealed.

Sec. 22. 36 MRSA §1811, sub-§1, ¶D, as amended by PL 2021, c. 578, §4; c. 658, §286; and c. 669, §5, is further amended by amending subparagraph (4) to read:

(4) Ten percent on the value of rental for a period of less than one year of:

(a) An automobile; or

~~(b) A truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles; or~~

(c) A loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; and

Sec. 23. 36 MRSA §1819, sub-§2, as amended by PL 2021, c. 181, Pt. B, §6, is further amended to read:

2. Sourcing for sales of tangible personal property and taxable services; generally. The sale of tangible personal property or a taxable service is sourced in this State pursuant to this subsection. Except as provided in subsections 3 to 5, the provisions of this subsection do not apply to the lease or rental of tangible personal property.

A. When the tangible personal property or taxable service is received by the purchaser at a business location of the seller, the sale is sourced to that business location.

B. When the tangible personal property or taxable service is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser or the purchaser's donee occurs, including the location indicated by instructions for delivery to the purchaser or donee known to the seller.

C. For a sale when paragraphs A and B do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

D. For a sale when paragraphs A to C do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

E. When paragraphs A to D do not apply, including the circumstance in which the seller is without sufficient information to apply paragraphs A to D, the location is determined by the address from which tangible personal property was shipped, from which the tangible personal property or taxable service transferred electronically was first available for transmission by the seller or from which the service was provided, disregarding for these purposes any location that merely provided the digital transfer of the tangible personal property or taxable service sold.

Sec. 24. 36 MRSA §1819, sub-§3 is enacted to read:

3. Sourcing for leases or rentals of tangible personal property. The lease or rental of tangible personal property, other than property identified in subsection 4 or 5, is sourced pursuant to this subsection.

A. For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced to this State in the same manner as a sale of tangible personal property in accordance with subsection 2. Periodic payments made subsequent to the first payment are sourced to the primary property location for each time period covered by the payment. For the purposes of this paragraph, "the primary property location" is an address for the property provided by the lessee that is available to the lessor from its records and maintained in the ordinary course of business, when use of this address does not constitute bad faith. The primary property location is not altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

B. For a lease or rental that does not require recurring periodic payments, the payment is sourced to this State in the same manner as a sale of tangible personal property in accordance with subsection 2.

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals, based on a lump sum payment or on the basis of accelerated payment, or on the acquisition of property for lease.

Sec. 25. 36 MRSA §1819, sub-§4 is enacted to read:

4. Motor vehicles, trailers, semitrailers, truck campers or aircraft. The lease or rental of motor vehicles, trailers, semitrailers, truck campers or aircraft that do not qualify as transportation equipment, as defined in subsection 5, is sourced pursuant to this subsection.

A. For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location is as indicated by an address for the

property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location is not altered by intermittent use at different locations.

B. For a lease or rental that does not require recurring periodic payments, the payment is sourced to the State in the same manner as a sale of tangible personal property in accordance with the provisions of subsection 2.

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals, based on a lump sum payment or on the basis of accelerated payment, or on the acquisition of property for lease.

Sec. 26. 36 MRSA §1819, sub-§5 is enacted to read:

5. Transportation equipment. The sale, including lease or rental, of transportation equipment is sourced to the State in the same manner as a sale of tangible personal property in accordance with the provisions of subsection 2. For the purposes of this subsection, "transportation equipment" means:

A. Locomotives and railcars that are used for the carriage of persons or property in interstate commerce;

B. Trucks and truck tractors with a gross vehicle weight rating greater than 10,000 pounds and trailers, semitrailers or passenger buses that are:

(1) Registered through the International Registration Plan; and

(2) Operated under authority of a carrier authorized and certificated by the United States Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce;

C. Aircraft that are operated by air carriers authorized and certificated by the United States Department of Transportation, another federal authority or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; or

D. Containers designed for use on and component parts attached to or secured on the equipment described in paragraphs A to C.

Sec. 27. 36 MRSA §2022 is enacted to read:

§2022. Refund of sales and use tax on purchases of qualifying retail lease or rental property

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

A. "Qualified lessor" means a person who:

(1) Paid Maine sales or use tax on the purchase of qualifying lease or rental property on or after January 1, 2023 and before January 1, 2025; and

(2) Collected and remitted Maine sales or use tax on the lease or rental of qualifying lease or rental property on or after January 1, 2025.

B. "Qualifying lease or rental property" means tangible personal property:

(1) Upon the purchase of which a qualified lessor paid Maine sales or use tax on or after January 1, 2023 and before January 1, 2025; and

(2) That was part of a taxable lease or rental transaction on or after January 1, 2025 for which the qualified lessor of the property collected and remitted Maine sales or use tax to the State.

2. Refund authorized. The State Tax Assessor shall refund the tax imposed pursuant to this Part and paid by a qualified lessor on the purchase of qualifying lease or rental property on or after January 1, 2023 and before January 1, 2025. The amount of the refund for qualifying lease or rental property is limited to the Maine sales or use tax collected and remitted to the State by the qualified lessor on qualifying lease or rental property on or after January 1, 2025 and before January 1, 2027.

3. Procedure and limitation. A qualified lessor may request a refund on qualifying lease or rental property by submitting a claim for refund on a form prescribed by the assessor. In order to qualify for a refund under this section, a qualified lessor must file one claim for all qualifying lease or rental property and must file the claim on or after January 1, 2027 and before March 31, 2027.

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

Sec. 28. Application. This Act applies to sales, leases and rentals of tangible personal property and sales of taxable services on or after January 1, 2025. For the purposes of lease or rental payments, each time period for which a lease or rental payment is charged is considered a separate sale.

See title page for effective date.