

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

NINTH REVISION

REVISED STATUTES

OF THE

STATE OF MAINE

1954

---

FIRST ANNOTATED REVISION

Effective December 31, 1954

---

IN FIVE VOLUMES

VOLUME 1



THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA

## Chapter 17.

### Sales and Use Tax Law.

**Law imposes tax on retailer.**—The Sales and Use Tax Law makes the legislative intention entirely clear that all sales not specifically exempted shall be taxed, that retailers “shall pay” the taxes levied, § 3, which shall be their “personal” debts to the state, § 16, and that the consumer shall pay no more than the taxes retailers are authorized to add to sales prices by § 5, which, as part of the price, “shall be a debt of the purchaser to the retailer until paid.” There is no provision other than that carried in § 4, applicable to use taxes only, which charges a consumer with the duty of paying a tax to the state. The tax payable to the state on each sale is computed from the sale price. It is only when

such price is fifty cents or some multiple thereof that one who purchases from a retailer pays that retailer the exact amount thereof. There can be no doubt that it was the retailer, and not the consumer, who was intended to be taxed by the Sales and Use Tax Law, or that the retailer was vested with the limited right to pass the tax applicable to each particular sale along to his customer so far, and so far only, as the schedule of § 5 permitted. The tax imposed upon a retailer, as § 3 specifically declares, “shall be in addition to all other taxes” the retailer is required to pay. *W. S. Libbey Co. v. Johnson*, 148 Me. 410, 94 A. (2d) 907.

**Sec. 1. Title.**—This chapter shall be known and may be cited as the “Sales and Use Tax Law.” (1951, c. 250, § 1.)

**Sec. 2. Definitions.**—The following words, terms and phrases when used in this chapter have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

“Advertisement” means any public announcement of whatever kind or character and includes any notice or announcement in any radio or television broadcast, newspaper, magazine, catalog, circular, handbill, sign, placard or any billboard.

“Business” includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect.

“Farm tractor” means any self-propelled vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.

“In this state” or “in the state” means within the exterior limits of the state of Maine and includes all territory within these limits owned by or ceded to the United States of America.

“Motor vehicle” means any self-propelled vehicle designed for the conveyance of passengers or property on the public highways.

“Passenger automobile” means any self-propelled 4-wheel motor vehicle, not designed to run on tracks, including so-called beach wagons and station wagons, designed to carry not more than 8 passengers.

“Person” includes any individual, firm, copartnership, association, society, club, corporation, estate, trust, business trust, receiver, assignee or any other group or combination acting as a unit, and the plural as well as the singular number, also the state and federal governments and all political subdivisions or agencies of either of them.

“Retailer” means every person engaged in the business of making sales at retail and every person required to register by section 6 or registered under the provisions of section 8.

A manufacturer is a “retailer,” as that term is defined in this section, by reason of the sale of foods and beverages to its employees at the cafeteria in its plant for con-

sumption on the premises. *W. S. Libbey Co. v. Johnson*, 148 Me. 410, 94 A. (2d) 907.

“Retail sale” or “sale at retail” means any sale of tangible personal property, in the ordinary course of business, for consumption or use, or for any purpose other than for resale, except resale as a casual sale, in the form of tangible personal property. The term “retail sale” or “sale at retail” includes conditional sales, installment lease sales, and any other transfer of tangible personal property when the title is retained as security for the payment of the purchase price and is intended to be transferred later. The term “retail sale” or “sale at retail” does not include any sale by an executor or administrator in the settlement of an estate, unless such sale is made through a retailer, or unless such sale is made in the continuation or operation of a business; nor does the term include any other isolated transaction in which any tangible personal property is sold, transferred, offered for sale or delivered by the owner thereof, such sale, transfer, offer for sale, or delivery not being made in the ordinary course of repeated and successive transactions of a like character by such owner, such transactions being elsewhere sometimes referred to as “casual sales”; provided, however, that “casual sale” shall not include any transaction in which tangible personal property is sold, transferred or offered for sale by a representative for the owner’s account when such representative is a registered retailer, in which event such registered retailer shall have the same duties respecting such sale as if he had sold on his own account. “Retail sale” and “sale at retail” do not include the sale of tangible personal property which becomes an ingredient or component part of, or which is consumed or destroyed or loses its identity in the manufacture of, tangible personal property for later sale by the purchaser but shall include fuel and electricity. “Retail sale” or “sale at retail” do not include the sale of containers, boxes, crates, bags, cores, twines, tapes, bindings, wrappings, labels and other packing, packaging and shipping materials when sold to persons for use in packing, packaging or shipping tangible personal property sold by them or upon which they have performed the service of cleaning, pressing, dyeing, washing, repairing or reconditioning in their regular course of business and which are transferred to the possession of the purchaser of such tangible personal property.

**Paragraph interpreted in its entirety.**—In interpreting this paragraph the court, if possible, must give effect to every word, phrase and clause contained therein. It is not to be presumed that the legislature used either words, phrases or clauses without reason or without meaning, or that they are used as mere surplusage. *Hudson Pulp & Paper Corp. v. Johnson*, 147 Me. 444, 88 A. (2d) 154.

The definition of “retail sale” or “sale at retail” is not found in the first sentence alone. The entire definition must be considered. *Coca-Cola Bottling Plants v. Johnson*, 147 Me. 327, 87 A. (2d) 667.

**The words “ingredient or component part” are applicable only to those things which are acted upon in manufacture,** to wit, personal property from which the manufactured product is being produced. In other words, they relate to the subject matter of manufacture. The same is true of the applicability of the words “loses its identity.” The words “consumed or destroyed,” however, are each applicable not only to that which is being acted upon, the subject matter of manufacture, but also to those things which act upon the subject

matter, viz., that which is being produced by manufacture. They are applicable to all of those expendibles by which the process of manufacture is carried on. *Hudson Pulp & Paper Corp. v. Johnson*, 147 Me. 444, 88 A. (2d) 154.

**Purchase of articles consumed in manufacture not taxable.**—The purchase of items of property which will be consumed or destroyed in the manufacture of personal property for later sale by the purchaser, is not a purchase at “retail sale” within the meaning of this section, and the purchaser is not subject to a use tax with respect to any of these items. *Androscoggin Foundry Co. v. Johnson*, 147 Me. 452, 88 A. (2d) 158.

**But consumption must be in manufacture of property for sale.**—The fact that articles of personal property are either consumed or destroyed is not necessarily determinative of the issue of their taxability. They must not only be consumed or destroyed but they must also be consumed or destroyed in the manufacture of tangible personal property for sale. *Hudson Pulp & Paper Corp. v. Johnson*, 147 Me. 444, 88 A. (2d) 154.

**Sale for resale not within meaning of section.**—"Retail sale," or "sale at retail," under this section does not include a sale for resale. *Coca-Cola Bottling Plants v. Johnson*, 147 Me. 327, 87 A. (2d) 667.

**Purchase of fuel used in manufacturing is taxed.**—From a consideration of the definition of "retail sale" and "sale at retail" and the exclusions therefrom, it is seen that purchases of fuel by the ultimate consumer are specifically included within the definition of "retail sale" and "sale at retail" as used in the act. This is true notwithstanding the fact that the fuel, when used as such, becomes "an ingredient or component part of," or is "consumed or destroyed or loses its identity in the manufacture of, tangible personal property for later sale by the purchaser." *Androscoggin Foundry Co. v. Johnson*, 147 Me. 452, 88 A. (2d) 158.

Fuel and electricity when used in the manufacture of personal property are ordinarily not only consumed or destroyed but they also act upon the subject matter of manufacture and are not themselves acted upon as a subject of the process of manufacture. Furthermore, they do not ordinarily enter into or become an ingredient of the end product. The insertion of the phrase "but shall include fuel and electricity" shows conclusively that the words "consumed or destroyed" are not used in a limited sense, but they refer to all those things which may be consumed or de-

stroyed in the process of manufacture, whether or not they be those things which act upon the subject matter thereof, or those things which are acted upon therein and thereby. *Hudson Pulp & Paper Corp. v. Johnson*, 147 Me. 444, 88 A. (2d) 154.

**And Purchase of coke, etc., is purchase at "retail sale".**—The purchases of coke, oil burned to heat coke ovens and oil burned to heat enameling ovens by the ultimate consumer are purchases at "retail sale" within the meaning of this section. *Androscoggin Foundry Co. v. Johnson*, 147 Me. 452, 88 A. (2d) 158.

**Drink bottle is "container".**—The common, returnable soft drink bottle, on which a deposit is made on purchase and refunded on return, is a "container" within the meaning of this section and its purchase is not "at retail sale" and not taxable. *Coca-Cola Bottling Plants v. Johnson*, 147 Me. 327, 87 A. (2d) 667.

**Application of section to lubricating oils, etc.**—Lubricating oils and greases used to lubricate machinery, and the wires and felts used in connection with and on the machinery employed in a manufacturing process are all expendibles. By being used in connection with the machinery and during the process of manufacture they will be consumed or destroyed within the meaning of those terms as used in this section. *Hudson Pulp & Paper Corp. v. Johnson*, 147 Me. 444, 88 A. (2d) 154.

"Sale" means any transfer, exchange or barter, in any manner or by any means whatsoever, for a consideration in the regular course of business and includes leases and contracts payable by rental or license fees for the right of possession and use, but only when such leases and contracts are deemed to be in lieu of purchase by the state tax assessor.

"Sale price" means the total amount of the sale or lease or rental price, as the case may be, of a retail sale, including any services that are a part of such sale, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property of any kind or nature, and also any amount for which credit is allowed by the seller to the purchaser, without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, losses or any other expenses whatsoever; provided, however, that discounts allowed and taken on sales shall not be included, and "sale price" shall not include allowances in cash or by credit made upon the return of merchandise pursuant to warranty, or the price of property returned by customers when the full price thereof is refunded either in cash or by credit, nor shall "sale price" include the price received for labor or services used in installing or applying or repairing the property sold, if separately charged or stated. "Sale price" shall also not include the amount of any tax imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer, excepting any manufacturers' or importers' excise tax; and shall not include transportation charges separately stated, if the transportation occurs after the purchase of the property is made.

“Storage” includes any keeping or retention in this state for any purpose, except subsequent use outside of this state, of tangible personal property purchased at retail sale.

“Storage” or “use” does not include keeping or retention or the exercise of power over tangible personal property brought into this state for the purpose of subsequently transporting it outside the state.

“Tangible personal property” means personal property which may be seen, weighed, measured, felt, touched or in any other manner perceived by the senses, but shall not include rights and credits, insurance policies, bills of exchange, stocks and bonds and similar evidences of indebtedness or ownership.

The words “tax assessor” or the word “assessor” means the state tax assessor.

“Use” includes the exercise in this state of any right or power over tangible personal property incident to its ownership when purchased by the user at retail sale. (1951, c. 250, § 1. 1953, c. 72, § 1; c. 146, §§ 1, 2, 3, 4; c. 266, § 1; c. 374; c. 418, § 1.)

**Applied** in *Lewiston v. Johnson*, 148 Me. 89, 89 A. (2d) 743.

**Sec. 3. Sales tax.**—A tax is imposed at the rate of 2% on the value of all tangible personal property, sold at retail in this state measured by the sale price, except as in this chapter provided. Retailers shall pay such tax at the time and in the manner hereinafter provided, and it shall be in addition to all other taxes.

The tax imposed upon the sale and distribution of gas, water or electricity by any public utility, the rates for which sale and distribution are established by the public utilities commission, shall be added to the rates so established. No tax shall be imposed upon the sale or use of electrical energy, or water stored for the purpose of generating electricity, when the sale is to or by a wholly owned subsidiary by or to its parent corporation.

No tax shall be imposed upon such property sold at retail for 10¢ or less, provided the retailer is primarily engaged in making such sales and keeps records satisfactory to the state tax assessor. (1951, c. 250, § 1. 1953, c. 146, § 5.)

**The sale of water from the mains of a city is a sale of personal property within the meaning of this section.** The intent of the legislature is crystal clear so far as they could make it so. *Lewiston v. Johnson*, 148 Me. 89, 89 A. (2d) 743.

Even though the water in a lake may be in a sense held in trust for the use of the people of the state, such trusteeship is a qualified one and is subject to the right of the state to provide that such water may be used by a public utility or a municipality for the common benefit of the people in its neighborhood. When such control over the waters is lawfully exercised, by confining it within pipes, aqueducts or other instrumentalities, and delivering it to customers of the water company or municipality, it becomes personal property which is subject to taxation under the sales and use tax law. *Lewiston v. Johnson*, 148 Me. 89, 89 A. (2d) 743.

Seisin, as in the case of land, or possession, as in the case of chattels, is not necessary in order that water may be sub-

ject to taxation under the sales and use tax law. In a sense water may be regarded as the property of all and free to all; but these general phrases must be read in their context and not used in the abstract to defeat the purpose of the legislature in taxing water as personal property is taxed under the sales and use tax law. *Lewiston v. Johnson*, 148 Me. 89, 89 A. (2d) 743.

**No exemption on basis of price except as provided in this section.**—The intention of the law that every sale is taxable to the retailer unless specifically exempted is entirely apparent, and there can be no semblance of foundation for the claim that any sales are exempt from taxation on the basis of price alone except those made “for 10¢ or less” within the requirements of this section. *W. S. Libbey Co. v. Johnson*, 148 Me. 410, 94 A. (2d) 907.

The legislative intention to tax sales regardless of price is clearly apparent in the language of this section which imposes a tax “on the value of all tangible personal property, sold at retail in this state” ex-

cept as otherwise provided in the law itself. *W. S. Libbey Co. v. Johnson*, 148 Me. 410, 94 A. (2d) 907.

**Quoted in part in** *Acheson v. Johnson*, 147 Me. 275, 86 A. (2d) 628.

**Sec. 4. Use tax.**—A tax is imposed on the storage, use or other consumption in this state of tangible personal property, purchased at retail sale at the rate of 2% of the sale price. Every person so storing, using or otherwise consuming is liable for the tax until he has paid the same or has taken a receipt from his seller, thereto duly authorized by the assessor, showing that the seller has collected the sales or use tax, in which case the seller shall be liable for it. Retailers registered under the provisions of section 6 or 8 shall collect such tax and make remittance to the assessor. The amount of such tax payable by the purchaser shall be that provided in the case of sales taxes by section 5. Whenever any tangible personal property whose sale or use is subject to tax under this chapter is required to be registered for use within this state by any other chapter than this, no registration shall be granted unless the applicant for registration has paid the sales tax or the use tax thereon. (1951, c. 250, § 1. P. & S. L. 1951, c. 213, § 12. 1953, c. 146, § 6; c. 308, § 13.)

The "use" tax under this section is based upon a purchase "at retail sale." *Coca-Cola Bottling Plants v. Johnson*, 147 Me. 327, 87 A. (2d) 667; *Hudson Pulp & Paper Corp. v. Johnson*, 147 Me. 444, 88 A. (2d)

154.  
**Quoted in part in** *Acheson v. Johnson*, 147 Me. 275, 86 A. (2d) 628.  
**Cited in** *W. S. Libbey Co. v. Johnson*, 148 Me. 410, 94 A. (2d) 907.

**Sec. 5. Adding tax to sale price.**—Every retailer shall add the sales tax imposed by this chapter, or the average equivalent of said tax, to his sale price, except as hereinafter provided, and when added the tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid and shall be recoverable at law in the same manner as the purchase price. When the sale price shall involve a fraction of a dollar, the tax shall be added to the sale price upon the following schedules:

<b>Amount of Sale Price</b>	<b>Amount of Tax</b>
\$0.01 to \$0.24, inclusive	No tax
.25 to .74, inclusive	1¢
.75 to 1.24, inclusive	2¢

Add 1¢ tax plus the above rate for each 50¢ or fraction thereof exceeding \$1.24.

When several articles are purchased together and at the same time, the tax may be computed on the total amount of the several items.

Breakage under this section shall be retained by the retailer as compensation for the collection. (1951, c. 250, § 1.)

This section authorizes retailers to add taxes to sales prices in accordance with the schedule established therein, but in no case where a sale is made at 24¢ or less. The closing provision of § 3 carries the only price recital and is in itself a complete answer to the claim that sales on which a retailer can collect no tax from a consumer under the schedule in this section are not intended to be taxed. It is there stated that: "No tax shall be imposed upon such property sold at retail for 10¢ or less, provided the retailer is primarily engaged in making such sales and keeps records satisfactory to the state tax assessor." *W. S. Libbey Co. v. Johnson*, 148 Me. 410, 94 A.

(2d) 907. See § 3 and notes thereto.  
**Retailers not to remit exact amount of tax.**—The "incidence" of all taxes, in final analysis, falls on the consumer, and it was clearly within the contemplation of the legislature when the Sales and Use Tax Law was enacted that such part of the tax imposed by § 3 as was added to selling prices under the schedule established by this section was to be paid to retailers making sales of tangible personal property by the purchasers thereof. That it was not contemplated that the exact amount of tax should be so added was made apparent by authorizing the addition of the tax "or the average equivalent" thereof, as well as by

the closing provision of this section that: "Breakage under this section shall be retained by the retailer as compensation for the collection."

This provision carries clear implication that it was contemplated, generally, that retailers would collect more money in taxes under the provisions of this section than would be required to meet the li-

ability imposed upon them by § 3, but it demonstrates even more clearly that there was no legislative intention that retailers should remit the exact amount of their collections, neither more nor less. *W. S. Libbey Co. v. Johnson*, 148 Me. 410, 94 A. (2d) 907.

**Applied** in *Lewiston v. Johnson*, 148 Me. 89, 89 A. (2d) 743.

**Sec. 6. Registration of sellers.**—In order to facilitate the enforcement of this chapter, the following persons, other than casual sellers, shall register with the assessor:

**I.** Every seller of tangible personal property, whether or not at retail, maintaining within this state any office, place of manufacture, place of distribution, sales or sample room or place, warehouse or storage place or other place of business.

**II.** Every seller of tangible personal property not maintaining a place as aforesaid who makes retail sales within this state or who makes delivery of tangible personal property sold at retail outside the state for use, storage or other consumption within the state.

**III.** Every consignee or agent who makes retail sales in the state of tangible personal property on behalf of a principal who is without the state if the principal is not the holder of a valid registration certificate.

**IV.** Every agent, representative, salesman, entrepreneur, solicitor, distributor or independent selling agent, when such person receives compensation by reason of sales of tangible personal property made outside the state by his principal for use, storage or other consumption in the state, if said principal is not the holder of a valid registration certificate.

Forms for application for registration certificates and registration certificates shall be prescribed and furnished free by the assessor. For each place of business the assessor shall issue a registration certificate which shall be conspicuously displayed at such place. No certificate shall be assignable, but it may be used by the legal representative of a registrant deceased, incompetent, bankrupt or insolvent.

In the case of a vendor who has no fixed place of business and sells from one or more vehicles, each such vehicle shall constitute a "place of business" for the purpose of this section. In the case of a vendor who has no fixed place of business and does not sell from a vehicle, the application for license shall nevertheless set forth a place to which any notice or other communication authorized by this chapter may be sent. (1951, c. 250, § 1. 1953, c. 72, § 2.)

**Cited** in *W. S. Libbey Co. v. Johnson*, 148 Me. 410, 94 A. (2d) 907.

**Sec. 7. Bonds.**—When, in the judgment of the assessor, it is necessary or advisable for the collection of sales or use taxes or both, he may accept from a taxpayer a bond written by a surety company qualified to do business in this state and in such amount and upon such condition as the assessor may determine. In lieu of such bond he may accept, for delivery to the custody of the treasurer of state, a deposit of money or securities in such amount and of such kind as he may approve. Such deposit shall be accepted by the treasurer of state who shall safely keep the same subject to the instructions of the assessor. (1953, c. 72, § 3.)

**Sec. 8. Voluntary registration.**—Every seller of tangible personal prop-

erty, not required by section 6 to register, may register upon such terms as the assessor may prescribe. Upon registration, he shall have the rights and duties of a person required to be registered and shall be subject to the same penalties. The person registered hereunder may at any time surrender his registration certificate and request that the same be canceled. Upon receipt of such certificate and request, the assessor shall grant the same if it appears to the assessor that the registrant has satisfied all liability to the state hereunder and that he is not required by law to register. Upon surrender of his certificate, the registered person shall cease to collect sales or use taxes upon sales taking place on and after the date of such surrender.

The assessor may revoke such voluntary registration for cause by giving 15 days' notice of intention to revoke. Within said 15-day period the person registered may petition for a reconsideration. If a petition for reconsideration is not then filed, the order of revocation becomes final at the expiration of the period. If a petition is filed within the 15-day period, the assessor shall reconsider the order, and if the petitioner has so requested in his petition, shall grant the petitioner an oral hearing and shall give the petitioner 10 days' notice of the time and place thereof. For cause shown, the assessor may extend the time for filing such petition. Any registrant aggrieved by the decision upon such petition may appeal therefrom as provided in section 33. (1951, c. 250, § 1. 1953, c. 72, § 4.)

Cited in *W. S. Libbey Co. v. Johnson*,  
148 Me. 410, 94 A. (2d) 907.

**Sec. 9. Presumption concerning sales.** — The burden of proving that a transaction was not taxable shall be upon the person charged with tax liability. (1951, c. 250, § 1. 1953, c. 146, § 7.)

Cited in *W. S. Libbey Co. v. Johnson*,  
148 Me. 410, 94 A. (2d) 907.

**Sec. 10. Exemptions.**—No tax on sales, storage or use shall be collected upon or in connection with:

**I. Exemptions by constitutional provisions.** Sales which this state is prohibited from taxing under the constitution or laws of the United States or under the constitution of this state.

**II. State and political subdivisions.** Sales to the state or any political subdivision, or to the federal government, or to any agency of either of them.

**III. Food products for human consumption.** Sales of food products as hereinafter defined. As used herein the term "food products" shall, except as herein otherwise provided, include cereals and cereal products; milk and milk products, other than candy and confectionery, but including ice cream; oleo-margarine; meat and meat products; fish and fish products; eggs and egg products; vegetable and vegetable products; fruit and fruit products, including pure fruit juices; spices, condiments and salt; sugar and sugar products other than candy and confectionery; coffee and coffee substitutes; tea, cocoa and cocoa products, other than candy and confectionery.

"Food products" shall not include spirituous, malt or vinous liquors; soft drinks, sodas or beverages such as are ordinarily dispensed at bars or soda fountains or in connection therewith; medicines, tonics, vitamins and preparations in liquid, powdered, granular, tablet, capsule, lozenge or pill form, sold as dietary supplements or adjuncts, except when sold on the prescription of a physician; water, including mineral bottled and carbonated waters and ice. "Food products" also shall not include meals served on or off the premises of the retailer; or drinks or food furnished, prepared or served for consumption at tables, chairs or counters, or from trays, glasses, dishes or other tableware provided by the retailer.

The sale of food products ordinarily sold for immediate consumption on or near the location of the retailer is a taxable sale, unless such products are sold on a "take out" or "to go" order and are actually packaged or wrapped and taken from the premises. Provided, however, meals, food and drink served to patients and inmates of hospitals licensed by the state for the care of human beings and other institutions licensed by the state for the hospitalization or nursing care of human beings shall be deemed "food products." (1953, c. 54; c. 146, § 8.)

**IV. Ships' stores.** Sale of cabin, deck and engine supplies to ships engaged in transporting cargo or passengers for hire in interstate or foreign commerce, not to include fuel and bunkering oil. (1953, c. 375.)

**V. Medicines.** Sales of medicines for human beings sold on doctor's prescription. (1953, c. 66.)

**VI. School meals.** Sales of meals served by public or private schools, school districts, student organizations and parent-teacher associations to the students or teachers of a school.

**VII. Seed, feed, fertilizer and bait.** Sales of seed, feed and fertilizer used in agricultural production and sales of bait to commercial fishermen.

**VIII. Motor vehicle fuel.** Sales of gasoline and motor fuels upon which a tax is now imposed by the state, but the tax payable upon such fuels not used by vehicles on the highway shall be deducted from any refund of the gasoline tax sought by the purchaser.

**IX. Coal, oil and wood.** Coal, oil, wood and all other fuels, except gas and electricity, when bought for cooking and heating in homes, hotels and apartment houses, and other buildings designed both for human habitation and sleeping. (1953, c. 401.)

**Coke used in smelting iron not exempt.**  
—Coke used as a fuel in smelting iron is not exempt from the tax by this subsection which contains the exemptions with respect to fuels. *Androscoggin Foundry Co. v. Johnson*, 147 Me. 452, 88 A. (2d) 158. See notes to § 2, paragraph 9.

**Exemption of fuel used by hotel under former statute.**—For a consideration of the exemption of fuel used in hotels prior to the 1953 amendment to this subsection, see *Acheson v. Johnson*, 147 Me. 275, 86 A. (2d) 628.

**X. Cigars, tobacco and cigarettes.** Sales of cigars, tobacco and cigarettes, subject to other taxes imposed by chapter 16.

**XI. Sales of liquor.** Sales of spirituous or vinous liquors sold in stores operated by the state liquor commission.

**XII. Containers.** Sale of returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling.

**Subsection not applicable to sale from manufacturer to bottler.**—This subsection operates at the level of the retail sale of the contents of the container or at the level of the sale of the container for re-

filling. It has no bearing upon a sale from manufacturer to bottler. *Coca-Cola Bottling Plants v. Johnson*, 147 Me. 327, 87 A. (2d) 667.

**XIII. Bibles.** Sales of the Bible and also other books and literature and utensils of worship used in and by established churches for religious instruction and prayer.

**XIV. Publications.** Sales of any publication regularly issued at average intervals not exceeding 3 months.

**XV. Sales to proprietors of unincorporated hospitals.** Sales to pro-

prietors of unincorporated hospitals of hospital supplies and equipment. By "hospital supplies and equipment" is intended all tangible personal property bought for the care, treatment and housing of patients of the hospital or any other purpose necessarily incident to the operation of the hospital. (1953, c. 109, § 1.)

**XVI. Hospitals, research centers, churches and schools.** Sales to incorporated hospitals, institutions incorporated as nonprofit corporations for the sole purpose of conducting medical research, schools and regularly organized churches or houses of religious worship, excepting sales, storage or use in activities which are mainly commercial enterprises. "Schools" mean incorporated non-stock educational institutions, including institutions empowered to confer educational, literary or academic degrees, which have a regular faculty, curriculum and organized body of pupils or students in attendance throughout the usual school year, which keep and furnish to students and others records required and accepted for entrance to schools of secondary, collegiate or graduate rank, no part of the net earnings of which inures to the benefit of any individual. (1953, c. 109, § 2; c. 407.)

**XVII. Automobiles used in driver education program.** Sales to automobile dealers registered under section 6 of automobiles for the purpose of equipping the same with dual controls and loaning or leasing the same to public or private secondary schools without consideration or for a consideration of not more than \$1 a year, and used exclusively by such schools in driver education programs. (1953, c. 274, § 1.)

**XVIII. Automobiles to amputee veterans.** Sales of automobiles to veterans who are granted free registration of such vehicles by the secretary of state under the provisions of section 13 of chapter 22. Certificates of exemption or refunds of taxes paid shall be granted under such rules or regulations as the assessor may prescribe. (1953, c. 385, § 3-A.)

**XIX. Passenger automobiles.** Passenger automobiles purchased by a nonresident and intended to be driven or transported outside the state immediately upon delivery by the seller. [1953, c. 418, § 2]. (1951, c. 250, § 1. 1953, cc. 54, 66; c. 109, §§ 1, 2; c. 146, § 8; c. 274, § 1; c. 375; c. 385, § 3-A; cc. 401, 407; c. 418, § 2.)

**Section Cited** in *W. S. Libbey Co. v. Acheson v. Johnson*, 147 Me. 275, 86 A. Johnson, 148 Me. 410, 94 A. (2d) 907; (2d) 628.

**Sec. 11. Tax only upon difference between sale price of purchased motor vehicle or farm tractor and sale price of vehicle or vehicles or farm tractor or tractors traded in.**—When one or more motor vehicles or farm tractors are traded in toward the sale price of another motor vehicle or farm tractor, the tax imposed by the provisions of this chapter shall be levied only upon the difference between the sale price of the purchased motor vehicle or farm tractor and the sale price of the motor vehicle or vehicles or farm tractor or tractors taken in trade. (1953, c. 266, § 2.)

**Sec. 12. Sales or use taxes paid in other jurisdictions.**—The use tax provisions of this chapter shall not apply in respect to the use, storage or consumption in this state of tangible personal property purchased at retail sale outside the state where the purchaser has paid a sales or use tax equal to or greater than the amount imposed by this chapter in another taxing jurisdiction, the proof of payment of such tax to be according to rules and regulations made by the assessor. If the amount of tax paid in another taxing jurisdiction is not equal to or greater than the amount of tax imposed by this chapter, then the purchaser shall pay to the assessor an amount sufficient to make the tax paid in the other taxing

jurisdiction and in this state equal to the amount imposed by this chapter. (1953, c. 390.)

**Sec. 13. Advertising.**—It shall be unlawful for any retailer to advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by this chapter will be assumed or absorbed by the retailer, or that it will not be added to or included in the selling price of the property sold, or if added or included that it or any part thereof will be refunded. Any person violating any part of the provisions of this section shall be guilty of a misdemeanor. (1951, c. 250, § 1.)

**Sec. 14. Collection of tax; report to assessor.**—Every retailer shall file with the assessor, on or before the 15th day of each month, a report made under the pains and penalties of perjury on such form as the assessor may prescribe, which shall disclose the total sale price of all sales made during the preceding calendar month, and such other information as the assessor shall require. The assessor may permit the filing of returns other than monthly. The assessor, by regulation, may waive reporting nontaxable sales. Upon application of a retailer, the assessor shall issue a classified permit establishing the percentage of exempt sales. Such classified permit may be amended or revoked as to its classification whenever the assessor shall determine that the percentage of exempt sales is inaccurate. The assessor may for good cause extend for not more than 30 days the time for making returns required under the provisions of this chapter. The tax paid on sales represented by accounts found to be worthless and actually charged off may be credited upon the tax due on subsequent report, but if any such accounts are thereafter collected by the retailer, a tax shall be paid upon the amounts so collected. Every person subject to the use tax shall file similar reports, at similar dates, and shall pay the tax or furnish a receipt for the same from a registered retailer.

Every person incurring a use tax liability of \$25, or sales tax liability of any amount in 1 calendar month, shall pay a penalty of \$1 if he shall omit to report the same at or before the time required. This penalty shall be in addition to all others by law provided. The assessor shall have power to waive such penalty in whole or in part. (1951, c. 250, § 1. 1953, c. 72, § 5; c. 146, § 9; c. 389.)

**Applied** in *Lewiston v. Johnson*, 148 Me. 89, 89 A. (2d) 743.

**Sec. 15. Payment of tax; interest.**—The taxes imposed by this chapter shall be due and payable at the time of the sale. Upon such terms and conditions as the assessor may prescribe, he may permit a postponement of payment to a date not later than the date when the sales so taxed are required to be reported. Any person who shall fail to pay any tax imposed by this chapter on or before the day when the same shall be required to be paid shall pay interest on said tax at the rate of  $\frac{1}{2}$  of 1% each month or fraction thereof that the same remains unpaid, to be calculated from the date the tax was required to be paid. All such interest shall be payable to, and recoverable by, the assessor in the same manner as if it were a tax imposed by this chapter. If the failure to pay such tax when required to be paid is explained to the satisfaction of the assessor, he may abate or waive the payment of the whole or any part of such interest and, for cause may abate the whole or any part of such tax.

The assessor shall pay over all receipts collected to the treasurer of state daily and such receipts shall be credited to the general fund. (1951, c. 250, § 1. 1953, c. 146, § 10.)

**Applied** in *Lewiston v. Johnson*, 148 Me. 89, 89 A. (2d) 743.

**Sec. 16. Tax a debt; proceedings to recover; preference.**—The taxes, interest and penalties imposed by this chapter, from the time the same

shall be due, shall be a personal debt of the retailer or user to the state of Maine, recoverable in any court of competent jurisdiction in an action at law in the name of the state of Maine, and shall have preference in any distribution of the assets of the taxpayer, whether in bankruptcy, insolvency or otherwise. The proceeds of any judgment obtained hereunder shall be paid to the assessor. (1951, c. 250, § 1. 1953, c. 72, § 5-A.)

Cited in *W. S. Libbey Co. v. Johnson*,  
148 Me. 410, 94 A. (2d) 907.

**Sec. 17. Sale of business; purchaser liable for tax.**—If any retailer liable for any tax or interest levied hereunder shall sell out his business or stock of goods, or shall quit the business, he shall make a final return and payment within 15 days after the date of selling or quitting business. His successor, successors or assignees, if any, shall withhold sufficient of the purchase money to cover the amount of such taxes and interest due and unpaid, until such time as the former owner shall produce a receipt from the assessor showing that they have been paid or a certificate stating that no taxes or interest are due. If a purchaser of a business or stock of goods shall fail to withhold purchase money as above provided, he shall be personally liable for the payment of the taxes and interest accrued and unpaid on account of the operation of the business by any former owner, owners or assignors. (1951, c. 250, § 1.)

**Sec. 18. Overpayment; refunds.**—Upon application by the taxpayer, if the assessor determines that any tax, interest or penalty has been paid more than once, or has been erroneously or illegally collected or computed, the assessor shall certify to the state controller the amount collected in excess of what was legally due, from whom it was collected or by whom paid, and the same shall be credited by the assessor on any taxes then due from the retailer under this chapter, and the balance shall be refunded to the retailer or user, or his successors, administrators, executors or assigns, but no such credit or refund shall be allowed after 2 years from the date of overpayment. The assessor shall also have the right to cancel or abate any tax which has been illegally levied. But nothing herein shall authorize the taxpayer, or anyone in his behalf, to apply for a refund of any amount assessed when the assessment has become final as hereinafter provided. (1951, c. 250, § 1. 1953, c. 72, § 6.)

**Sec. 19. Arbitrary assessment.**—If any person shall fail to make a report as herein required, the assessor may make an estimate of the taxable liability of such person from any information he may obtain, and according to such estimate so made by him, assess the taxes, interest and penalties due the state from such person, give notice of such assessment to the person and make demand upon him for payment. (1951, c. 250, § 1. 1953, c. 72, § 7.)

**Sec. 20. Deficiency assessment.**—After a report is filed under the provisions of this chapter, the assessor shall cause the same to be examined, and may make such further audits or investigations as he may deem necessary and if therefrom he shall determine that there is a deficiency with respect to the payment of any tax due under this chapter, he shall assess the additional taxes and interest due the state, give notice of such assessment to the person liable, and make demand upon him for payment but no such additional assessment can be made after 2 years. (1951, c. 250, § 1.)

Cited in *W. S. Libbey Co. v. Johnson*,  
148 Me. 410, 94 A. (2d) 907.

**Sec. 21. Jeopardy assessment.**—If the assessor finds that a person liable for a tax designs quickly to depart from this state or to remove his property therefrom, or to conceal himself or his property, or to discontinue business, or to do any other act tending to prejudice or to render wholly or partially in-

effective proceedings to collect such tax, unless such proceedings be brought without delay, the assessor shall cause notice of such finding to be given such person, together with a demand for an immediate report and immediate payment of such tax. If report and payment are not made upon demand, the assessor may make an estimate of the taxable liability of such person, from any information he may obtain, and according to such estimate, assess the taxes and interest due the state from such person. The assessor shall give notice of said assessment and demand payment thereof, and said assessment shall be presumed to be correct, the burden of showing otherwise being on the taxpayer. Thereupon, such tax shall become immediately due and payable. The assessor may, at the same time, without delay, bring suit for the collection of the tax. (1951, c. 250, § 1. 1953, c. 72, § 8.)

**Sec. 22. Penalties.**—Whenever the assessor shall determine that any tax assessed under sections 19, 20 or 21 was unpaid due to negligence or intentional disregard of the provisions of this chapter or of any ruling, rule or regulation of the assessor issued pursuant to the provisions of this chapter, but without intent to defraud, a penalty of 10% of the amount of such tax as determined by the assessor shall be added to said assessment. Whenever any tax assessed under any of the preceding 3 sections was unpaid due to fraud with intent to evade the tax imposed by this chapter, a penalty of 25% of the amount of such tax as determined by the assessor shall be added to said assessment. Such penalties shall be in addition to any interest and other penalties provided by law but interest shall not accrue on said penalties. For cause, the assessor may waive or abate all or any part of said penalties. (1953, c. 72, § 9.)

**Sec. 23. Administration.**—The assessor is authorized and empowered to carry into effect the provisions of this chapter and, in pursuance thereof, to make and enforce such reasonable rules and regulations consistent with this chapter as he may deem necessary. (1951, c. 250, § 1.)

**Regulations do not determine taxability.**—Whether or not the purchase or sale of an article of personal property subjects the purchaser to a sales or use tax, and if so to which one, depends, not upon the regulations of the assessor, but upon the chapter itself. Although the assessor is authorized by this section to promulgate and enforce rules and regulations, by the very terms of the section such rules and regulations must be consistent with the

chapter. The assessor by regulation can neither make that which is non-taxable under the chapter taxable, nor can he render that which is taxable under the chapter non-taxable. It is the chapter, not the assessor's regulations which determines taxability. *Hudson Pulp & Paper Corp. v. Johnson*, 147 Me. 444, 88 A. (2d) 154.

**Applied in** *Acheson v. Johnson*, 147 Me. 275, 86 A. (2d) 628.

**Sec. 24. Assistants.**—The tax assessor is authorized to employ such assistants, subject to the provisions of the personnel law, as may be necessary. (1951, c. 250, § 1.)

**Sec. 25. Power to examine records and premises.**—The assessor, whenever he shall deem it expedient, may make or cause to be made by any employee of the assessor engaged in the administration of this chapter, an examination or investigation of the place of business, the tangible personal property, and the books, records, papers, vouchers, accounts and documents of any retailer. It shall be the duty of every retailer and of every director, officer, agent or employee of every retailer to exhibit to the assessor or to any such employee of the assessor, the place of business, the tangible personal property, and all of the books, records, papers, vouchers, accounts and documents of the said retailer, and to facilitate any such examination or investigation so far as it may be in his or their power to do so. It shall be lawful for the assessor, or any employee of the assessor by him thereto duly authorized, to take the oath of any person signing any application, deposition, statement or report required by the assessor in

the administration of this chapter. The provisions of this section shall also apply to any person who, the assessor has reason to believe, is liable to the payment of a tax under this chapter. (1951, c. 250, § 1.)

**Sec. 26. Power to conduct hearings.**—The assessor or any employee of the assessor by him thereto designated may conduct hearings, administer oaths to and examine under oath any seller and the directors, officers, agents and employees of any seller as well as all other witnesses relative to the business of such seller in respect to any matter incident to the administration of this chapter. The provisions of this section shall also apply to any person who, the assessor has reason to believe, is liable for the payment of a tax under this chapter. (1951, c. 250, § 1. 1953, c. 146, § 11.)

**Sec. 27. Power to summon witnesses.**—The assessor or any of his authorized agents shall have the power to compel the attendance of witnesses and the production of any books, records, papers, vouchers, accounts or documents of any retailer or of any person who, the assessor has reason to believe, is liable to the payment of a tax under this chapter, or of any person believed to have information pertinent to any matter under investigation by the assessor, to any hearing held pursuant to the provisions of this chapter. The fees of witnesses required to attend any such hearing shall be the same as those allowed to witnesses appearing in the superior court but no fee shall be payable to a witness charged with use or sales tax liability. Such fees shall be paid in the manner provided for the payment of the other expenses incident to the administration of this chapter. The powers granted by this section may be exercised by any employee of the assessor authorized by him.

Any examination on oath conducted by the state tax assessor may in his discretion be reduced to writing and false swearing therein shall be deemed perjury and be punishable as such.

Any justice of the superior court upon application of the state tax assessor may compel the attendance of witnesses and the giving of testimony before the state tax assessor in the same manner, to the same extent and subject to the same penalties as if before said court. (1951, c. 250, § 1. 1953, c. 146, § 12.)

**Sec. 28. Notices, how given.**—Any notice required to be given by the assessor pursuant to this chapter to any person may be served personally, or by sending the same by registered mail to the person for whom it is intended, addressed to such person at the address given in the last report filed by him pursuant to the provisions of this chapter, or if no report has been filed, then to the address of his last known abode; or in the case of other than an individual to the last known business address. (1951, c. 250, § 1. 1953, c. 146, § 13.)

**Sec. 29. Records of retailers.**—Every retailer shall keep records of his sales, the kind and form of which shall be adequate to enable the assessor to determine the tax liability. All such records shall be safely preserved for a period of 3 years in such manner as to insure their security and accessibility for inspection by the assessor or by any of his employees engaged in the administration of this chapter. The assessor may consent to the destruction of any such records at any time within said period. (1951, c. 250, § 1.)

**Sec. 30. Confidential character of the assessor's records.**—The records and files of the assessor respecting the administration of this chapter shall be confidential and privileged, and neither the assessor nor any employee engaged in the administration of this chapter or charged with the custody of any such records or files shall divulge or disclose any information obtained from said records or files or from any examination or inspection of the premises or property of any person. Neither the assessor nor any employee engaged in the administration of this chapter or charged with the custody of any such records

or files shall be required to produce any of them for the inspection of any person or for use in any action or proceedings except in behalf of the assessor, in an action or proceeding under the provisions of this chapter to which the assessor is a party, or in behalf of any party to any action or proceeding under the provisions of this chapter, when the records or files or the facts shown thereby are directly involved in any such action or proceedings. Nothing herein contained shall be construed to prevent:

- I. The delivery to a taxpayer or his duly authorized representative of a copy of any report or any other paper filed by him pursuant to the provisions of this chapter. (1953, c. 146, § 14.)
- II. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof.
- III. The disclosure of information to duly authorized officers of the United States and of other states, districts and territories of the United States and of the provinces and Dominion of Canada; provided, however, that such information may be given only on the written request of the duly authorized officer when the said officer's government permits the exchange of like information with the taxing officials of this state and when the said officer agrees that such information shall be used only for tax collection purposes. [1953, c. 146, § 15]. (1951, c. 250, § 1. 1953, c. 146, §§ 14, 15.)

**Sec. 31. Dissolution of corporations prohibited until tax is paid.**—No corporation organized under any law of this state shall be dissolved by the action of the stockholders or by the decree of any court until all taxes and interest and penalties imposed upon said corporation in accordance with the provisions of this chapter have been fully paid. No certificate of dissolution shall be issued by the secretary of state and no decree of dissolution shall be signed by any court, as the case may be, without a certificate of the assessor evidencing the payment by the corporation to be dissolved of all taxes, interest and penalties imposed in accordance with the provisions of this chapter. (1951, c. 250, § 1. 1953, c. 72, § 10.)

**Sec. 32. Petition for reconsideration of assessment.**—Any person against whom an assessment shall be made by the assessor under the provisions of this chapter may petition for a reconsideration of assessment within 15 days after notice shall have been given such person as provided in section 28. If a petition for a reconsideration of assessment is not filed within said 15-day period, the amount of the assessment becomes final at the expiration thereof as to law and fact. If a petition for a reconsideration of assessment is filed within said 15-day period, the assessor shall reconsider the assessment and, if the petitioner has so requested in his petition, shall grant said petitioner an oral hearing and shall give the petitioner 10 days' notice of the time and place thereof. For cause shown the assessor may extend the time for filing such petition. If appeal is not taken as provided in section 33, the amount of the assessment upon reconsideration becomes final as to law and fact at the expiration of the 30-day period therein allowed for the taking of appeals. (1951, c. 250, § 1. 1953, c. 146, § 16.)

**Applied** in *Acheson v. Johnson*, 147 Me. 275, 86 A. (2d) 628; *Coca-Cola Bottling Plants v. Johnson*, 147 Me. 327, 87 A. (2d) 667; *Hudson Pulp & Paper Corp. v. Johnson*, 147 Me. 444, 88 A. (2d) 154; *Andros-coggin Foundry Co. v. Johnson*, 147 Me. 452, 88 A. (2d) 158; *W. S. Libbey Co. v. Johnson*, 148 Me. 410, 94 A. (2d) 907.

**Sec. 33. Appeal.**—Any taxpayer aggrieved by the decision upon such petition may, within 30 days after notice thereof from the assessor, appeal therefrom to the next term of the superior court to be begun and held more than 30 days after such notice of said decision in any county where he has a regular place of business for making retail sales, or, if he has no such place of business within the state, to such term of the superior court in Kennebec county. The appellant shall,

on or before the 3rd day of the term to which such appeal is taken, file an affidavit stating his reasons of appeal and serve a copy thereof on the assessor, and in the hearing of the appeal shall be confined to the reasons of appeal set forth in such affidavit. Jurisdiction is granted to the superior court to hear and determine such appeals and to enter such order and decrees as the nature of the case may require. Hearings may be had before the court in term time or any justice thereof in vacation and the decision of said court or justice upon all questions of fact shall be final. Decisions shall be certified to the tax assessor. (1951, c. 250, § 1.)

**Applied** in *Acheson v. Johnson*, 147 Me. 275, 86 A. (2d) 628; *Coca-Cola Bottling Plants v. Johnson*, 147 Me. 327, 87 A. (2d) 667; *Hudson Pulp & Paper Corp. v. Johnson*, 147 Me. 444, 88 A. (2d) 154; *Androscoggin Foundry Co. v. Johnson*, 147 Me. 452, 88 A. (2d) 158; *W. S. Libbey Co. v. Johnson*, 148 Me. 410, 94 A. (2d) 907.

**Sec. 34. Injunctions.**—The state tax assessor may, by petition in equity, apply for the revocation of registration and injunction from doing business of any person required to register by this chapter or any ruling, rule or regulation, who

- I. Has omitted to register within 15 days after the assessor shall have made demand as provided by section 28, or
- II. Has omitted to file with the assessor any overdue report within 15 days after the assessor shall have made demand therefor as provided by section 28, or shall have knowingly filed a false report, or
- III. Has omitted to pay any tax required of him by this chapter when the same shall be shown to be due on a report filed by the taxpayer, or admitted to be due by the taxpayer, or shall have been determined to be due and such determination shall have become final under the provisions of this chapter.

The existence of other civil or criminal remedies shall be no defense to this proceeding.

The petition in equity shall be deemed adequate as to form if it sets forth

- I. The name and the address of the respondent as stated in his last return filed with the assessor, or, if no such return was filed, the address, if any, known to the assessor.
- II. The breach of the law or ruling or rule or regulation committed by the respondent.
- III. The assessor's prayer for relief.

The paragraphs of the petition shall be numbered. The petition need not be verified.

Such petition may be presented to any justice of the superior court or supreme judicial court in term time or vacation in any county where the respondent has a regular place of business, or, if he have no regular place, then in Kennebec county. Such justice shall forthwith fix a time and place for hearing, which may be in vacation, and cause notice thereof to be given the respondent. The respondent shall serve upon the state tax assessor a copy of his answer to the petition at least 3 days before the day of hearing. The answer shall be paragraphed and numbered to conform with the numbering of the paragraphs in the petition so far as may be. Any allegation of fact in the petition which is not denied shall be taken as true.

Jurisdiction is granted to the justices of the superior court and the supreme judicial court to hear and determine such matters, and to enter and change such orders and decrees from time to time as the nature of the case may require and, if necessary, to appoint a receiver. From any final decree of such justice, an appeal lies to the next term of the law court. Either party aggrieved may take

exceptions to any ruling of law. Said appeal or bill of exceptions shall be heard by the law court in the same manner as in equity cases. (1953, c. 72, § 11.)

**Sec. 35. Priority of tax.**—Whenever any person liable for any tax levied hereunder is insolvent, whenever any such person makes a voluntary assignment of his assets, whenever the estate of a deceased person liable in the hands of the executors, administrators or heirs is insufficient to pay all the debts due from the deceased or whenever estate and effects of an absconding, concealed or absent person liable are levied upon by process of law, the tax, together with interest attaching thereto, shall be first settled; provided, however, that this section shall not be construed to give the state a preference over any recorded lien which attached prior to the date when the tax became due. (1951, c. 250, § 1.)

**Sec. 36. Criminal penalties.** — Any violation of any provision of this chapter for which a penalty is not provided by any other chapter of the revised statutes may be punished by a fine of not less than \$20, nor more than \$500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. For the purpose of this section, every person required to register under section 6 who shall engage in any business for which registration is required under section 6, without being the holder of a currently valid registration certificate, shall commit a separate offense for each calendar week or part thereof during which he shall be so engaged. (1951, c. 250, § 1. 1953, c. 72, § 13.)

**Sec. 37. Tax is levy on consumer.**—The liability for, or the incidence of, the tax on tangible personal property provided by this chapter is declared to be a levy on the consumer. The retailer shall add the amount of the tax on such property and may state the amount of the taxes separately from the price of such property on all price display signs, sales or delivery slips, bills and statements which advertise or indicate the price of such property. The provisions of this section shall in no way affect the method of collection of such taxes on such property as now provided by law. (1951, c. 250, § 1. P. & S. L., 1951, c. 213, §§ 9, 10. 1953, c. 308, § 14.)

**Purpose of section.**—This section is clearly part and parcel of the Sales and Use Tax Law, and was enacted for the express purpose of declaring the legislative intention underlying the enactment of that law. *W. S. Libbey Co. v. Johnson*, 148 Me. 410, 94 A. (2d) 907.

The reason underlying the amendment of the law by the addition of this section was to make it clear that the sales tax is a tax on the consumer so that the consumer can deduct it in computation of his income tax. *W. S. Libbey Co. v. Johnson*, 148 Me. 410, 94 A. (2d) 907.