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Legislative Document

No. 1254

H.P. 915

House of Representatives, March 14, 2019

An Act To Authorize a Local Option Sales Tax on Meals and Lodging and Provide Funding To Treat Opioid Use Disorder

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative SYLVESTER of Portland.
Cosponsored by Senator CHIPMAN of Cumberland and
Representatives: FARNSWORTH of Portland, FOLEY of Biddeford, HARNETT of Gardiner,
KESSLER of South Portland, MOONEN of Portland, O'NEIL of Saco, SCHNECK of Bangor.

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

2 **Sec. 1. 36 MRSA §1819** is enacted to read:

3 **§1819. Municipal local option sales tax on meals and lodging; funding for treatment**
4 **of opioid use disorder**

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

7 A. "Local option sales tax" means a sales tax imposed pursuant to subsection 2.

8 B. "Participating municipality" means a municipality that has imposed a local option
9 sales tax pursuant to this section.

10 C. "Prepared food" does not include adult use marijuana or adult use marijuana
11 products, as defined in Title 28-B, section 102, subsections 1 and 2, respectively.

12 **2. Authorization to impose local option sales tax.** A municipality by referendum
13 conducted pursuant to subsection 9 may impose a local option sales tax of no more than
14 1% on prepared food and the value of rental of living quarters in any hotel, rooming
15 house or tourist or trailer camp and may limit the period of time the tax is imposed to
16 specified months of the year.

17 **3. Local option sales tax limited to taxable meals and lodging.** A municipality
18 may not impose a local option sales tax on prepared food or the value of rental of living
19 quarters of any hotel, rooming house or tourist or trailer camp not subject to tax pursuant
20 to section 1811.

21 **4. Notify State Tax Assessor.** A participating municipality shall notify the assessor
22 at least 90 days before the local option sales tax is effective.

23 **5. Administration.** A retailer in a participating municipality shall transfer the
24 revenue from a local option sales tax at the time and in the manner provided in section
25 1951-A for the transfer of state sales tax revenue. The tax is subject to the same
26 enforcement provisions, interest, penalties and administrative actions as other taxes
27 assessed under this Part.

28 **6. Distribution of revenue.** Each month, the assessor shall identify the amount of
29 revenue attributable to each participating municipality under this section, subtract the
30 costs of administering this section and certify the net amount for that municipality to the
31 Treasurer of State for distribution pursuant to this subsection. From the net amount
32 certified for a municipality under this subsection, the Treasurer of State shall make
33 monthly payments as follows:

34 A. To the participating municipality, 85% of the net amount; and

35 B. To all other municipalities, 15% of the net amount. Funds distributed pursuant to
36 this paragraph must be used by the receiving municipality for the purposes of
37 preventing and treating opioid use disorder in that municipality.

1 For purposes of this subsection, "costs of administering this section" means the lesser of
2 the actual cost to the assessor of administering this section and 2% of the total revenue
3 generated by a local option sales tax.

4 **7. Use of revenue by participating municipality.** A participating municipality that
5 receives funds pursuant to subsection 6, paragraph A shall use those funds for the
6 purposes described in the referendum approved under subsection 9.

7 **8. Effect on revenue sharing and other state aid programs.** Revenue received
8 pursuant to subsection 5 may not be considered to be receipts from the taxes imposed
9 under this Part for the purpose of transfers to the Local Government Fund under Title
10 30-A, section 5681. Revenue received pursuant to subsection 5 may not be used to reduce
11 or eliminate any funding otherwise due a municipality under any provision of law
12 providing aid to the municipality, including, but not limited to, aid for schools, roads,
13 public assistance or jails.

14 **9. Referendum.** The question of whether to impose a local option sales tax must be
15 submitted to the legal voters of a municipality that seeks to impose the local option sales
16 tax. The referendum question must indicate the rate of the local option sales tax, specify
17 the months during which it will be imposed if not year-round and identify the purposes
18 for which the revenue will be used.

19 The petition process and voting must be held and conducted in accordance with Title
20 30-A, sections 2528, 2529 and 2532 even if the municipality has not accepted the
21 provisions of Title 30-A, section 2528. The voting at elections must be held and
22 conducted in accordance with Title 21-A.

23 The municipal clerk shall make a return of the results, certify the results and send them to
24 the Secretary of State. The Secretary of State shall forward the results to the assessor.

25 The local option sales tax may be discontinued by referendum conducted in the same
26 manner as the referendum adopting the tax under this subsection.

27 **10. Effective date of tax; acceptance by voters.** A local option sales tax authorized
28 by this section takes effect 120 days after the municipal referendum vote under
29 subsection 9 if it is accepted by a majority of the legal voters voting at the election and
30 the total number of votes cast equals or exceeds 20% of the total number of votes cast in
31 that municipality in the most recent gubernatorial election.

32 SUMMARY

33 This bill allows a municipality to impose a local option sales tax, which may be
34 seasonal, on prepared food, not including marijuana or marijuana products, and short-
35 term lodging of no more than 1% if approved by referendum of the voters in that
36 municipality. Revenue from the local option sales tax is distributed 85% to the
37 municipality and 15% to all other municipalities. The 15% distributed to a municipality
38 must be used by that municipality for the purposes of preventing and treating opioid use
39 disorder in that municipality. Revenue received by a municipality may not be used to
40 reduce or eliminate funding otherwise due the municipality under other provisions of law.