

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Ensure Fairness for Maine Businesses**

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

**Sec. 1. 5 MRSA §1811-B** is enacted to read:

### **§ 1811-B. Condition of doing business with the State**

Notwithstanding any provision of law to the contrary, the Department of Administrative and Financial Services, through the Bureau of General Services, shall ensure that an entity from whom a purchase of services, supplies, materials or equipment for State Government or any department or agency of State Government is made is registered as a seller pursuant to Title 36, section 1754-B. If the seller is located outside of this State, the seller, as a condition of doing business with the State, must register with the State Tax Assessor and collect and remit taxes in accordance with Title 36, Part 3. The State is prohibited from doing business with an entity that refuses to register as a seller and collect and remit taxes pursuant to Title 36, section 1754-B.

**Sec. 2. 5 MRSA §1831, sub-§2**, as amended by PL 1989, c. 165, §2, is further amended to read:

**2. Limitation.** This section does not apply to purchase of supplies, services, materials and equipment, except for the requirements of section 1811-B, or to public improvements, as described under chapters 153 and 155. This section does not apply to construction, improvement or repair of any and all ways, roads or bridges with appurtenances or other public improvements ~~which~~that by law are under the supervision of the Department of Transportation in accordance with section 1741.

**Sec. 3. 36 MRSA §1754-B, sub-§1, ¶G**, as amended by PL 2005, c. 218, §20, is further amended to read:

G. Every seller of tangible personal property or taxable services that has a substantial physical presence in this State sufficient to satisfy the requirements of the due process and commerce clauses of the United States Constitution. The following activities do not constitute a substantial physical presence for the purpose of this paragraph:

- (1) Solicitation of business in this State through catalogs, flyers, telephone or electronic media when delivery of ordered goods is effected by the United States mail or by an interstate 3rd-party common carrier;
- (2) Attending trade shows, seminars or conventions in this State;
- (3) Holding a meeting of a corporate board of directors or shareholders or holding a company retreat or recreational event in this State;

(4) Maintaining a bank account or banking relationship in this State; or

(5) Using a vendor in this State for printing, drop shipping or telemarketing services; and

**Sec. 4. 36 MRSA §1754-B, sub-§1, ¶H,** as enacted by PL 2005, c. 218, §21, is amended to read:

H. Every person that makes retail sales in this State of tangible personal property or taxable services on behalf of the owner of that property or the provider of those services; and

**Sec. 5. 36 MRSA §1754-B, sub-§1, ¶I** is enacted to read:

I. Every person that sells tangible personal property or taxable services to the State and that is required to do so as a condition of doing business with the State pursuant to Title 5, section 1811-B or section 1831, subsection 2.

## SUMMARY

This bill requires a person selling supplies, services, materials and equipment to the State to register with the State Tax Assessor as a seller and collect and remit sales tax as a condition of doing business with the State. The State is prohibited from doing business with an entity that fails to comply with this requirement.