

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 §1825-B, sub-§14** is enacted to read:

**14. Condition of doing business with the State.** Notwithstanding any provision of law to the contrary, any purchase by the State of \$100,000 or more of tangible personal property, except for public utility purchases, as defined in Title 36, section 1752, subsection 17, or emergency purchases pursuant to subsection 2, paragraph B, may be made only from a person who is registered as a seller pursuant to Title 36, section 1754-B. As a condition of doing business with the State, the seller must collect, report and remit taxes in accordance with Title 36, Part 3. As provided in this subsection, the State is prohibited from doing business with a person who is not registered as a seller pursuant to Title 36, section 1754-B and is not in compliance with the requirement to collect, report and remit taxes pursuant to Title 36, Part 3. After notification of the award, the seller must provide the State Purchasing Agent with a valid retailer certificate issued by the State Tax Assessor within 7 business days. If the seller fails to provide the registration certificate within 7 business days, the State Purchasing Agent may cancel the award and make a new award pursuant to subsection 7. The State Purchasing Agent shall provide the State Tax Assessor with a copy of all contracts awarded pursuant to this section. The State Tax Assessor shall notify the State Purchasing Agent if at any time during the term of the contract the person is no longer registered or is not collecting, reporting and remitting taxes in compliance with the requirements of Title 36, Part 3. Until the noncompliance is corrected, the State Purchasing Agent may withhold any payments to the person.

**Sec. 2. 36 MRSA §191, sub-§2, ¶HH,** as amended by PL 2005, c. 683, Pt. A, §64, is further amended to read:

HH. The disclosure to an authorized representative of a municipality that has adopted a municipal property tax assistance program under chapter 907-A of information related to a claimant's receipt of benefits under chapter 907. This paragraph does not authorize the disclosure of a claimant's income. A municipality receiving information under this paragraph shall keep the information confidential; and

**Sec. 3. 36 MRSA §191, sub-§2, ¶II,** as reallocated by RR 2005, c. 1, §19, is amended to read:

II. The disclosure to an authorized representative of the Maine Milk Commission of information on the quantity of packaged milk handled in the State and subject to the milk handling fee established in section 4902 and other information obtained by the assessor in the administration of chapter 721-; and

**Sec. 4. 36 MRSA §191, sub-§2, ¶JJ** is enacted to read:

JJ. The disclosure to the State Purchasing Agent of a person's sales tax standing as necessary to enforce Title 5, section 1825-B, subsection 14.

**Sec. 5. 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. 6. 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. 7. 36 MRSA §1754-B, sub-§1, ¶I** is enacted to read:

I. Every person not otherwise required to be registered that sells tangible personal property to the State and is required to register as a condition of doing business with the State pursuant to Title 5, section 1825-B.

Effective September 20, 2007