

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-THREE

—  
H.P. 1153 - L.D. 1808

**An Act to Amend the State Tax Laws**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** legislative action is immediately necessary to ensure continued and efficient administration of municipal property taxes and the property tax stabilization for senior citizens program; and

**Whereas,** the property tax stabilization for senior citizens program needs to be updated before the 90-day period expires to avoid delay in the processing of municipal property taxes and municipal applications for state reimbursement; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**PART A**

**Sec. A-1. 36 MRSA §1951-C, sub-§1,** as enacted by PL 2019, c. 441, §8, is amended to read:

**1. Responsibilities of marketplace facilitator.** A marketplace facilitator is considered a retailer for each sale of tangible personal property or taxable services for delivery in this State that the marketplace facilitator facilitates on or through its marketplace, including for the collection of the recycling assistance fee pursuant to chapter 719.

**Sec. A-2. 36 MRSA §2557, sub-§27,** as enacted by PL 2003, c. 673, Pt. V, §25 and affected by §29, is amended to read:

**27. Nonprofit housing development organizations.** Sales to nonprofit organizations whose primary purpose is to develop housing for low-income people. For the purposes of this subsection, "low-income" means having income that is less than 120% of the median

income for the area, adjusted for family size, as established by the United States Department of Housing and Urban Development or its successor organization;

**Sec. A-3. Effective date.** This Part takes effect 90 days following adjournment of the First Special Session of the 131st Legislature.

## **PART B**

**Sec. B-1. 36 MRS §653, sub-§1, ¶C,** as amended by PL 2021, c. 682, §1, is further amended by amending subparagraph (1) to read:

(1) During any federally recognized war period, including the Korean Conflict, the Vietnam War, the Persian Gulf War, the periods from August 24, 1982 to July 31, 1984 and December 20, 1989 to January 31, 1990, Operation Enduring Freedom, Operation Iraqi Freedom and Operation New Dawn, or during the period from February 1, 1955 to February 27, 1961, or who were awarded ~~the Armed Forces Expeditionary Medal~~ an expeditionary medal for service in the Armed Forces of the United States, when they have reached the age of 62 years or when they are receiving any form of pension or compensation from the United States Government for total disability, service-connected or nonservice-connected, as a veteran. A veteran of the Vietnam War must have served on active duty after February 27, 1961 and before May 8, 1975. "Persian Gulf War" means service on active duty on or after August 2, 1990 and before or on the date that the United States Government recognizes as the end of that war period; or

**Sec. B-2. 36 MRS §653, sub-§1, ¶D-1,** as amended by PL 2021, c. 682, §2, is further amended to read:

D-1. The estates up to the just value of \$50,000, having a taxable situs in the place of residence, for specially adapted housing units, of veterans who served in the Armed Forces of the United States during any federally recognized war period, including the Korean Conflict, the Vietnam War, the Persian Gulf War, the periods from August 24, 1982 to July 31, 1984 and December 20, 1989 to January 31, 1990, Operation Enduring Freedom, Operation Iraqi Freedom and Operation New Dawn, or during the period from February 1, 1955 to February 27, 1961, or who were awarded ~~the Armed Forces Expeditionary Medal~~ an expeditionary medal for service in the Armed Forces of the United States, and who are ~~paraplegic veterans within the meaning of~~ as described in 38 United States Code, Chapter 21, Section 2101, and who received a grant from the United States Government for any such housing, or of the unremarried widows or widowers of those veterans. A veteran of the Vietnam War must have served on active duty after February 27, 1961 and before May 8, 1975. "Persian Gulf War" means service on active duty on or after August 2, 1990 and before or on the date that the United States Government recognizes as the end of that war period. The exemption provided in this paragraph applies to the property of the veteran including property held in joint tenancy with a spouse or held in a revocable living trust for the benefit of that veteran.

**Sec. B-3. 36 MRS §694, sub-§2, ¶B,** as amended by PL 2013, c. 544, §4 and affected by §7, is further amended to read:

B. In the case of a municipality that chooses reimbursement under this paragraph in which the personal property factor exceeds 5%, the applicable percentage for exempt

business equipment is 50% plus an amount equal to 1/2 of the personal property factor. For purposes of this paragraph, "personal property factor" means the percentage derived from a fraction, the numerator of which is the value of taxable business personal property in the municipality, ~~whether taxable or exempt plus the value of exempt eligible business equipment~~, and the denominator of which is the value of all taxable property in the municipality plus the value of exempt business equipment. For purposes of this paragraph, the ~~taxable~~ value of exempt business equipment is the value that would have been assessed on that equipment if it were taxable.

**Sec. B-4. 36 MRSA §701-A, 3rd ¶**, as enacted by PL 2021, c. 663, §1, is amended to read:

For the purpose of establishing the valuation of improved real property, the property must be valued based on its highest and best use as of April 1st of each year, taking all of the following 3 approaches to value into consideration: cost, income ~~capitalization~~ and sales comparison. In establishing the valuation of improved real property, assessors shall consider age, condition, use, type of construction, location, design, physical features and economic characteristics.

**Sec. B-5. 36 MRSA §6260, sub-§2**, as amended by PL 1991, c. 846, §38, is further amended to read:

**2. Deferred property taxes due.** The amounts of deferred property taxes, including accrued interest, for all years are due and payable to the bureau ~~April 30th of the year following the calendar year in~~ within 12 months of the date on which the circumstance occurs, except as provided in subsection 3 and ~~section~~ sections 6261 and 6263;

**Sec. B-6. 36 MRSA §6263**, as enacted by PL 1989, c. 534, Pt. C, §1, is amended to read:

**§6263. Extension of time for payment upon death of claimant or spouse**

**1. Payment extension.** If the taxpayer who claimed homestead property tax deferral dies, or if a spouse who continued the deferral under section 6261 dies, the bureau may extend the time for payment of the deferred taxes and interest accruing with respect to the taxes becoming due and payable under section 6260, subsection 2, if:

- A. The homestead property becomes property of an individual or individuals:
  - (1) By inheritance or devise; or
  - (2) If the individual or individuals are heirs or devisees in the course of settlement of the estate;
- B. An individual or individuals commence occupancy of the property as a principal residence ~~on or before August 15th of the calendar year following the calendar year~~ within 12 months of the date of death; or and
- C. An individual or individuals make application to the bureau for an extension of time for payment of the deferred taxes and interest ~~prior to August 15th of the calendar year following the calendar year~~ within 12 months of the date of death.

**2. Extension terms.** Subject to paragraph B, an extension granted under ~~this section~~ shall subsection 1 must be for a period not to exceed ~~5~~ 6 years ~~after August 15th of the calendar year following the calendar year~~ from the date of death. The terms and conditions

under which the extension is granted ~~shall~~ must be in accordance with a written agreement entered into by the bureau and the individual or individuals.

An extension granted under this section ~~shall terminate~~ terminates immediately if:

- A. The homestead property is sold or otherwise transferred by any party to the extension agreement;
- B. All of the heirs or devisees who are parties to the extension agreement cease to occupy the property as a principal residence; or
- C. The homestead property, a mobile or floating home, is moved out of the State.

**3. Accrued interest.** During the period of extension, and until paid, the deferred taxes ~~shall~~ continue to accrue interest in the same manner and at the same rate as provided under section 6255, subsection 3. ~~No interest~~ Interest may not accrue upon interest.

**Sec. B-7. Effective date.** This Part takes effect 90 days following adjournment of the First Special Session of the 131st Legislature.

## PART C

**Sec. C-1. 36 MRSA §2521-A, first ¶,** as amended by PL 2015, c. 300, Pt. A, §29, is further amended to read:

Every insurance company, association, producer or attorney-in-fact of a reciprocal insurer subject to the tax imposed by this chapter shall make payment of estimated tax on or before the last day of each April, the 25th day of each June and the last day of each October. Each April and June estimated tax payment must equal 35% of the total tax paid for the preceding calendar year or at least 35% of the total tax to be paid for the current calendar year and each October estimated tax payment must equal 15% of the total tax paid for the preceding calendar year or at least 15% of the total tax to be paid for the current calendar year. except that, for the tax on nonadmitted insurance premiums under section 2531, the surplus lines producer or the insured may elect to determine the estimated tax payment for each estimated tax period on the basis of premiums on contracts written during each estimated tax period of the current calendar year. A final return must be filed on or before March 15th covering the prior calendar year.

**Sec. C-2. 36 MRSA §2531, sub-§1,** as repealed and replaced by PL 2011, c. 548, §19 and affected by §36, is amended to read:

**1. Generally.** All gross direct insurance premiums and annuity considerations ~~paid to~~ on contracts written by insurers that do not have certificates of authority to do business in this State issued by the Superintendent of Insurance pursuant to Title 24-A are subject to taxation in accordance with this section if this State is the insured's home state, as defined in the federal Nonadmitted and Reinsurance Reform Act of 2010, Public Law 111-203, Section 527. This section does not apply to reinsurance premiums paid by an authorized domestic insurer.

**Sec. C-3. 36 MRSA §5122, sub-§1, ¶Z,** as repealed and replaced by PL 2009, c. 496, §21, is repealed.

**Sec. C-4. 36 MRSA §5122, sub-§2, ¶HH,** as amended by PL 2013, c. 331, Pt. C, §32, is further amended to read:

HH. To the extent included in federal adjusted gross income, annuity payments made to the survivor of a deceased member of the military who died as the result of service in active or reserve components of the United States Army, Navy, Air Force, Marines or Coast Guard under a survivor benefit plan or reserve component survivor benefit plan pursuant to 10 United States Code, Chapter 73 reduced by any amount claimed as a modification under paragraph M ~~or~~, M-1 or M-2;

**Sec. C-5. 36 MRSA §5147**, as enacted by PL 2019, c. 401, Pt. C, §7 and amended by c. 607, Pt. C, §3, is further amended to read:

**§5147. Installment sale election**

Notwithstanding any provision of this Part to the contrary, an individual who transferred, during the taxable year, real or tangible personal property located in this State under an installment sale agreement may elect to recognize, for purposes of determining the taxable income under this chapter, the total gain from that sale in the taxable year of the transfer; or to recognize any remaining gain in a subsequent tax year to the extent of the gain not reported in a prior tax year. An election under this section is not available to an individual unless that individual is a nonresident of this State at the time of the transfer or at the time the election is made by the individual. Any installment interest related to the sale of property for which an election is made under this section is excluded from the taxable income of the nonresident individual under chapter 807 for the taxable year for which the election under this section is made and any subsequent taxable year. The interest exclusion in this section does not apply to any loan interest arrangement which has as a principal purpose the avoidance of any tax of this State. An election under this section must be made on a timely filed original income tax return, including if filed by any extension granted for filing the return, and, once made, is irrevocable.

**Sec. C-6. 36 MRSA §5219-PP, sub-§6** is enacted to read:

**6. Application.** Except for the credit allowed with respect to the carry-forward of unused credit amounts pursuant to subsection 4, the tax credit allowed under this section does not apply to taxable years beginning on or after January 1, 2024.

**Sec. C-7. 36 MRSA §5231, sub-§1-A**, as amended by PL 2019, c. 659, Pt. G, §2, is further amended to read:

**1-A. Federal extension.** When an individual, estate or trust is granted an extension of time within which to file a federal income tax return for any taxable year, an extension to file the taxpayer's income tax return with respect to the tax imposed by this Part is automatically granted for an equivalent period from the date prescribed for filing the return. When a taxable corporation or a financial institution subject to the tax imposed by chapter 819 is granted an extension of time within which to file its federal income tax return for any taxable year, an extension to file the taxpayer's income tax or franchise tax return with respect to the tax imposed by this Part is automatically granted for an equivalent period from the date prescribed for filing the return plus 30 days.

**Sec. C-8. 36 MRSA §6753, sub-§12**, as amended by PL 2015, c. 368, §5, is further amended to read:

**12. Qualified employee.** Except for an employee in a call center in Aroostook County or Washington County, "qualified employee" means a new, full-time employee hired in this State by a qualified business, for whom a retirement program subject to the federal

Employee Retirement Income Security Act of 1974, 29 United States Code, Chapter 18 and group health insurance are provided, and whose income derived from employment with the applicant, calculated on a calendar year basis, is greater than the most recent annual per capita personal income in the county in which the qualified employee is employed, as long as ~~Maine income tax withholding~~ gross wages paid attributed to the qualified employee is are subject to reimbursement to the qualified business under this chapter. "Qualified employee" does not include an employee who is shifted to a qualified business from an affiliated business. The commissioner shall determine whether a shifting of employees has occurred.

For an employee in a call center in Aroostook County or Washington County, "qualified employee" means a new, full-time employee hired in this State by a qualified business, for whom a retirement program subject to the federal Employee Retirement Income Security Act of 1974, 29 United States Code, Chapter 18 and group health insurance are provided, and whose income derived from employment with the applicant, calculated on a weekly basis, is greater than the average weekly wage for the most recent available calendar year as derived from the quarterly census of employment and wages and provided annually by the Department of Labor, as long as ~~Maine income tax withholding~~ gross wages paid attributed to the qualified employee is are subject to reimbursement to the qualified business under this chapter. "Qualified employee" does not include an employee who is shifted to a qualified business from an affiliated business. The commissioner shall determine whether a shifting of employees has occurred. The calculation of the average weekly wage must include data from the counties of Androscoggin, Aroostook, Franklin, Hancock, Kennebec, Knox, Lincoln, Oxford, Penobscot, Piscataquis, Sagadahoc, Somerset, Waldo and Washington. Notwithstanding this subsection, with respect to a call center in Aroostook or Washington county, in a county in which the average annual unemployment rate at the time of certification for the most recent calendar year is greater than the state average for the same year, the wage threshold is 90% of the average weekly wage as derived from the quarterly census of employment and wages. Notwithstanding this subsection, with respect to a call center in Aroostook or Washington county and upon approval of the commissioner, a qualified business located in a county in which the average annual unemployment rate at the time of certification for the most recent calendar year is greater than the state average for that same year qualifies for a phase-in of salary threshold requirements. A qualified business under this provision must meet 70% of the average weekly wage as derived from the quarterly census of employment and wages in the first year of certification, 80% of the average weekly wage as derived from the quarterly census of employment and wages in the 2nd year of certification and 90% of the average weekly wage as derived from the quarterly census of employment and wages in all following years of certification. Failure to meet any of these requirements results in automatic revocation of certification.

**Sec. C-9. Application.** Those sections of this Part that amend the Maine Revised Statutes, Title 36, section 2521-A, first paragraph, section 2531, subsection 1 and section 5147 apply to taxable years beginning on or after January 1, 2024. The section of this Part that amends Title 36, section 5231, subsection 1-A applies to taxable years beginning on or after January 1, 2023.

**Sec. C-10. Application; retroactivity.** That section of this Part that repeals the Maine Revised Statutes, Title 36, section 5122, subsection 1, paragraph Z applies

retroactively to taxable years beginning on or after January 1, 2020. The section of this Part that amends Title 36, section 5122, subsection 2, paragraph HH applies retroactively to taxable years beginning on or after January 1, 2016. The section of this Part that amends Title 36, section 6753, subsection 12 applies retroactively to requests for reimbursement for calendar years beginning on or after January 1, 2022.

**Sec. C-11. Effective date.** This Part takes effect 90 days following adjournment of the First Special Session of the 131st Legislature.

## **PART D**

**Sec. D-1. 36 MRSA §6281, sub-§1,** as enacted by PL 2021, c. 751, §1, is amended to read:

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

A. "Eligible homestead" means a homestead occupied by an eligible individual who is eligible for a homestead exemption under chapter 105, subchapter 4-B for the property tax year ~~during which an application for~~ for which the individual is requesting stabilization is made.

B. "Eligible individual" means an individual who, on April 1 of the property tax year for which the individual is requesting stabilization:

(1) Is 65 years of age or older; and

(2) Is a permanent resident of the State as defined in section 681, subsection 4 ~~who~~ and has owned a homestead in the State for at least 10 years.

C. "Homestead" has the same meaning as under section 681, subsection 2.

D. "Stabilize" means to maintain the property tax billed to an eligible individual for the individual's eligible homestead at the amount billed for that homestead for the property tax year preceding the ~~date of application for~~ property tax year for which the individual is requesting stabilization.

**Sec. D-2. 36 MRSA §6281, sub-§5,** as enacted by PL 2021, c. 751, §1, is amended to read:

**5. State compensation.** A municipality that has stabilized property tax for an eligible individual under this chapter may recover from the State 100% of the amount by which the property tax assessed on the homestead of an eligible individual in the usual manner exceeds the stabilized amount of property tax billed under subsection 3. A municipality claiming compensation under this subsection shall submit a claim to the bureau ~~by November 1st of the year in which the property tax was stabilized~~ on the annual return required by section 383. The bureau shall review claims and determine the total amount to be paid to each municipality. The bureau shall certify and the Treasurer of State shall pay the amount due to each municipality by January 15th of the year following the year ~~in~~ for which the claim for compensation was submitted or within 60 days of the date the claim was filed, whichever is later.

**Sec. D-3. 36 MRSA §6281, sub-§6** is enacted to read:

**6. Audits; determinations of bureau.** The bureau may audit the records of a municipality to ensure compliance with this chapter. The bureau may independently review

the records of a municipality to determine if applications under this section have been properly approved. If the bureau determines that an application was improperly approved, the bureau shall ensure, either by setoff against other payments due the municipality or otherwise, that the municipality is not compensated for that application. A municipality that is aggrieved by a determination of the bureau under this subsection may appeal pursuant to section 151.

## **PART E**

**Sec. E-1. 36 MRSA §4401, sub-§1-A**, as enacted by PL 2011, c. 285, §11, is amended to read:

**1-A. Delivery sale.** "Delivery sale" means a sale of tobacco products, other than premium cigars, to a consumer in this State when:

A. The purchaser submits the order for the sale by means of telephonic or other electronic method of voice transmission, the United States mail, the Internet or a delivery service; or

B. The tobacco products are delivered by use of a delivery service.

**Sec. E-2. 36 MRSA §4401, sub-§1-B** is enacted to read:

**1-B. Consumer.** "Consumer" means an individual who purchases, receives or possesses tobacco products for personal consumption and not for resale.

**Sec. E-3. 36 MRSA §4401, sub-§1-C** is enacted to read:

**1-C. Cost price.** "Cost price" means:

A. In the case of a manufacturer, the price set for tobacco products or, if a price has not been set, the wholesale value of those products;

B. In the case of a distributor or consumer, the price at which the distributor or consumer purchases tobacco products before the allowance of any discount, trade allowance, rebate or other reduction; or

C. In the case of a remote retail seller:

(1) The actual price paid for an item identified using a stock keeping unit that identifies the item using a unique code or identifier; or

(2) If the actual price paid for an item is not available, the average of the actual price paid for the item over the 12 calendar months before January 1st of the year in which the remote sale occurs.

**Sec. E-4. 36 MRSA §4401, sub-§2**, as amended by PL 2011, c. 285, §12, is repealed and the following enacted in its place:

**2. Distributor.** "Distributor" means:

A. A person engaged in the business of producing or manufacturing tobacco products in this State for sale in this State;

B. A person engaged in the business of selling tobacco products in this State who brings, or causes to be brought, into this State tobacco products for sale to a retailer;

C. A person with a place of business in this State engaged in the business of selling tobacco products in this State who brings, or causes to be brought, into this State tobacco products for sale to a person other than a retailer;

D. A person engaged in the business of selling tobacco products who ships or transports tobacco products to retailers for sale in this State;

E. A retailer who imports, receives or acquires, from a person other than a licensed distributor, tobacco products for sale within the State; or

F. A person who makes delivery sales.

A distributor may be located within or without the State.

**Sec. E-5. 36 MRSA §4401, sub-§4-A** is enacted to read:

**4-A. Premium cigar.** "Premium cigar" has the same meaning as in Title 22, section 1551, subsection 5.

**Sec. E-6. 36 MRSA §4401, sub-§4-B** is enacted to read:

**4-B. Remote retail sale.** "Remote retail sale" means any sale into this State of premium cigars to a consumer when:

A. The consumer submits the order for the sale by means of a telephone or other method of voice transmission, United States mail or the Internet or other online service or the remote retail seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

B. The premium cigars are delivered to the buyer by common carrier, private delivery service or other method of remote delivery or the remote retail seller is not in the physical presence of the buyer when the buyer obtains possession of the cigars.

**Sec. E-7. 36 MRSA §4401, sub-§4-C** is enacted to read:

**4-C. Remote retail seller.** "Remote retail seller" means a person who makes a remote retail sale when:

A. The person's gross sales from sales of tangible personal property or taxable services, as those terms are defined in Part 3, into this State in the previous calendar year or current calendar year exceeds \$100,000; or

B. The person made sales of tangible personal property or taxable services, as those terms are defined in Part 3, for delivery into this State in at least 200 separate transactions in the previous calendar year or current calendar year.

**Sec. E-8. 36 MRSA §4401, sub-§6**, as enacted by PL 1985, c. 783, §16, is repealed.

**Sec. E-9. 36 MRSA §4401, sub-§9**, as amended by PL 2019, c. 607, Pt. B, §7 and PL 2021, c. 669, §5, is further amended to read:

**9. Tobacco products.** "Tobacco products" means cigars, including premium cigars; cheroots; stogies; electronic smoking devices and liquids used in electronic smoking devices whether or not they contain nicotine; periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; snuff flour; snus; cavendish; plug and twist tobacco; finecut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as

to be intended for human consumption or as is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means. "~~Tobacco products~~" does not include:

~~A. Products that are subject to the tax provided by chapter 703;~~

~~B. Drugs, devices or combination products authorized for sale by the United States Department of Health and Human Services, Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act;~~

~~C. Any product that contains adult use cannabis subject to tax under chapter 723; or~~

~~D. Any product that contains cannabis or cannabis products subject to control under Title 22, chapter 558-C.~~

**Sec. E-10. 36 MRSA §4402, sub-§1**, as amended by PL 2019, c. 379, Pt. B, §15, is further amended to read:

**1. Generally.** Every distributor or remote retail seller shall obtain a license from the State Tax Assessor before engaging in business. A retailer required to be licensed as a distributor or remote retail seller pursuant to this chapter ~~must also~~ that is required to hold a current retail tobacco license issued under Title 22, chapter 262-A, subchapter 1 must hold that license as a condition for licensure under this chapter. ~~A distributor's license must be prominently displayed on the premises of the business covered by the license and~~ A license issued pursuant to this section may not be transferred to any other person. ~~A distributor's license issued pursuant to this section is not a license within the meaning of that term in the Maine Administrative Procedure Act.~~

**Sec. E-11. 36 MRSA §4402, sub-§2**, as enacted by PL 2005, c. 627, §7, is amended to read:

**2. Applications; forms.** Every license application must be made on a form prescribed by the assessor and must state the name and address of the applicant, the address of the applicant's principal place of business and such other information as the assessor may require for the proper administration of this chapter. ~~A person outside the State who ships or transports tobacco products to a retailer in this State must make application as a distributor and be granted by the assessor a license subject to all the provisions of this chapter and agree, upon applying for a license, shall agree to submit that person's books, accounts and records to examination by the bureau during reasonable business hours and to accept service of process by mail when service is made in any proceeding involving enforcement of this chapter.~~

**Sec. E-12. 36 MRSA §4402, sub-§4**, as enacted by PL 2005, c. 627, §7, is amended to read:

**4. Penalties.** The following penalties apply to a violation of this section.

A. A distributor or remote retail seller that imports into this State any tobacco product without holding a ~~distributor's~~ license issued by the assessor pursuant to this section commits a civil violation for which a fine of not less than \$250 and not more than \$500 must be adjudged.

B. A distributor or remote retail seller that violates paragraph A after having been previously adjudicated as violating paragraph A commits a civil violation for which a

fine of not less than \$500 and not more than \$1,000 must be adjudged for each subsequent violation.

C. A distributor or remote retail seller that sells at wholesale or retail, offers for sale at wholesale or retail or possesses with intent to sell at wholesale or retail any tobacco product without holding a distributor's license issued by the assessor pursuant to this section commits a civil violation for which a fine of not less than \$250 and not more than \$500 must be adjudged.

D. A distributor or remote retail seller that violates paragraph C after having been previously adjudicated as violating paragraph C commits a civil violation for which a fine of not less than \$500 and not more than \$1,000 must be adjudged for each subsequent violation.

**Sec. E-13. 36 MRSA §4402, sub-§5**, as amended by PL 2019, c. 379, Pt. B, §17, is further amended to read:

**5. Surrender, revocation or suspension.** When the business with respect to which a license was issued pursuant to this section is sold or ceases to do business in this State, the holder of the license shall immediately surrender it to the assessor. The assessor may revoke or suspend the license of any distributor or remote retail seller for failure to comply with any provision of this chapter or if the person no longer imports or sells tobacco products. A license that has been revoked or suspended pursuant to this subsection must be immediately surrendered to the assessor. A person aggrieved by a revocation or suspension may request reconsideration as provided in section 151.

**Sec. E-14. 36 MRSA §4402, sub-§6**, as amended by PL 2019, c. 379, Pt. B, §18, is further amended to read:

**6. License directory maintained.** The assessor shall maintain a directory of distributors and remote retail sellers licensed pursuant to this chapter. The assessor shall update the directory as necessary, but not less than annually. Notwithstanding the provisions of section 191, the list must be available to the public and must be posted on a publicly accessible website maintained by the assessor. ~~The directory must be mailed annually to all retailers at or near the time of renewal of a retail tobacco license issued under Title 22, chapter 262-A, subchapter 1.~~

**Sec. E-15. 36 MRSA §4402, sub-§7**, as amended by PL 2019, c. 379, Pt. B, §18, is further amended to read:

**7. Notification.** A distributor or remote retail seller that has its license suspended or revoked, within 10 business days of the suspension or revocation, shall inform in writing all its accounts in this State that it no longer holds a valid license under this section. Notwithstanding the provisions of section 191, the assessor may publish the names of distributors and remote retail sellers that have had a license suspended or revoked.

**Sec. E-16. 36 MRSA §4403, sub-§2**, as amended by PL 2019, c. 530, Pt. A, §4, is further amended to read:

**2. Other tobacco.** ~~A tax is imposed on cigars, pipe tobacco and other tobacco intended for smoking at the rate of 20% of the wholesale sales price beginning October 1, 2005.~~ Beginning January 2, 2020, a tax is imposed on all tobacco products, other than those subject to tax under subsection 1, at the rate of 43% of the wholesale sales price. Beginning

January 1, 2024, a tax is imposed on all tobacco products, other than those subject to tax under subsection 1, at the rate of 43% of the cost price. Beginning January 2, 2020, the tax rate imposed pursuant to this subsection is subject to adjustment pursuant to subsection 5.

**Sec. E-17. 36 MRSA §4403, sub-§3**, as amended by PL 2005, c. 627, §9, is further amended to read:

**3. Imposition.** The tax is imposed at the time the distributor or remote retail seller brings or causes to be brought into this State tobacco products that are for sale to consumers or to retailers or for use or at the time tobacco products are manufactured or fabricated in this State for sale in this State.

**Sec. E-18. 36 MRSA §4403, sub-§4**, as enacted by PL 1985, c. 783, §16, is repealed.

**Sec. E-19. 36 MRSA §4403**, as amended by PL 2019, c. 530, Pt A, §§3 to 5, is further amended by enacting at the end a new paragraph to read:

A tobacco product may be taxed only once by the State in accordance with this section.

**Sec. E-20. 36 MRSA §4403-A** is enacted to read:

**§4403-A. Exemptions from the tobacco tax**

**1. Exempt items.** The tax imposed on tobacco products does not apply to the following products:

A. Products that are subject to the tax provided by chapter 703; or

B. Drugs, devices or combination products authorized for sale by the United States Department of Health and Human Services, Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

**2. Tobacco products containing cannabis.** The tax imposed on tobacco products does not apply to the sale of an electronic smoking device or other tobacco product containing adult use cannabis subject to tax under chapter 723 or an electronic smoking device or other tobacco product containing cannabis or cannabis products subject to control under Title 22, chapter 558-C.

**3. Exportation.** The tax imposed on tobacco products does not apply to those products exported from this State or to any tobacco products that under laws of the United States may not be subject to taxation by this State.

**Sec. E-21. 36 MRSA §4404**, as amended by PL 2019, c. 379, Pt. B, §§19 and 20, is repealed and the following enacted in its place:

**§4404. Returns; payment of tax and penalty**

**1. Monthly returns.** Every distributor or remote retail seller subject to the licensing requirement of section 4402 shall file, on or before the last day of each month, a return on a form prescribed by the assessor together with payment of the tax due under this chapter. The return must report all tobacco products held, purchased, manufactured, brought in or caused to be brought in from outside the State or shipped or transported to retailers or consumers within the State during the preceding calendar month.

**2. Exports.** The return must include further information as the assessor may prescribe and must show a credit for any tobacco products exported on which the tax was previously

paid as provided in section 4403-A, subsection 3. The distributor or remote retail seller shall maintain records to substantiate the credit.

**3. Tax previously paid on unsalable items.** Tax previously paid on tobacco products that are returned to a manufacturer, a distributor or a remote retail seller because the product has become unfit for use, sale or consumption and on tobacco products that are returned to a distributor or remote retail seller that are subsequently destroyed by the distributor or remote retail seller may be taken as a credit on a subsequent return. The assessor may either witness the destruction of the product or may accept another form of proof that the product has been destroyed by the distributor or remote retail seller or returned to the manufacturer.

**4. Person not a distributor or remote retail seller required to file.** A person who is not a distributor or remote retail seller licensed pursuant to this chapter who imports, receives or otherwise acquires tobacco products for use or consumption in the State from a person other than a licensed distributor or licensed remote retail seller shall file, on or before the last day of the month following each month in which tobacco products were acquired, a return on a form prescribed by the assessor together with payment of the tax imposed by this chapter at the rate provided in section 4403. The return must report the quantity of tobacco products imported, received or otherwise acquired from a person other than a licensed distributor, licensed remote retail seller or retailer during the previous calendar month and additional information the assessor may require.

**Sec. E-22. 36 MRSA §4404-A, first ¶**, as enacted by PL 2005, c. 627, §11, is amended to read:

Violation of this section by a person other than a retailer is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. It is an affirmative defense to a prosecution under this section that a retailer, alleged to have imported tobacco products or caused tobacco products to be imported, reasonably relied on licensing information ~~annually mailed to the retailer~~ provided by the assessor pursuant to section 4402, subsection 6 that listed the company from which the retailer obtained tobacco products as being a licensed distributor.

**Sec. E-23. 36 MRSA §4404-A, sub-§3**, as amended by PL 2007, c. 438, §103, is further amended to read:

**3. Exception for personal use.** A person who is not a licensed distributor or licensed remote retail seller may:

A. Import or transport tobacco products other than cigars into this State and transport those tobacco products from place to place within this State for personal use in a quantity not greater than one pound; or

B. Import or transport cigars into this State and transport those cigars from place to place within this State for personal use in a quantity of no more than 125 cigars.

Untaxed tobacco products imported or transported into this State in any quantity are subject to the tax imposed by section 4403.

**Sec. E-24. 36 MRSA §4404-B**, as enacted by PL 2005, c. 627, §11, is amended to read:

**§4404-B. Sales of tobacco products in contravention of law**

**1. Tobacco products.** A distributor or remote retail seller may not offer for sale or sell tobacco products if the package containing the tobacco products:

A. Is subject to and does not comply with 15 United States Code, Section 4401, et seq., for the placement of labels, warnings or any other information for a package of tobacco products to be sold within the United States and 26 United States Code, Section 5723;

B. Is labeled "For Export Only," "U.S. Tax Exempt," "For Use Outside U.S." or with other wording indicating that the manufacturer did not intend that the product be sold in the United States;

C. Has been altered by adding or deleting wording, labels or warnings described in paragraphs A and B;

D. Has been imported into the United States in violation of 26 United States Code, Section 5754; or

E. In any way violates federal trademark or copyright laws.

**2. Shipment only to licensed retailers.** A distributor may not sell or offer to sell tobacco products to a retailer unless the retailer has provided documentation to the distributor that the retailer holds a current retail tobacco license issued under Title 22, section 1551-A.

**3. Deceptive practice.** A distributor or remote retail seller that sells tobacco products described in subsection 1, with or without having paid the appropriate tax, commits an unfair or deceptive act or practice under the Maine Unfair Trade Practices Act.

**4. Penalties.** The following penalties apply to violations of this section.

A. A distributor or remote retail seller that violates this section commits a Class E crime.

B. A distributor or remote retail seller that violates this section ~~when the distributor has~~ after having one or more prior convictions for a violation of this section commits a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

**Sec. E-25. 36 MRSA §4404-C, sub-§2,** as enacted by PL 2005, c. 627, §11, is amended to read:

**2. Exceptions.** The following tobacco products are not subject to seizure:

A. Tobacco products in the possession of a licensed distributor, remote retail seller or manufacturer for which the tax imposed by this chapter has not been paid;

B. Tobacco products for which the tax imposed by this chapter has not been paid that are in the course of transit from without the State and are:

(1) Consigned to a licensed distributor or remote retail seller; or

(2) In transit by common carrier or contract carrier; and

C. Tobacco products in a quantity of no more than 125 cigars or one pound of other tobacco product in the possession of an individual who is not a licensed distributor or remote retail seller for which the tax imposed by this chapter has not been paid.

Notwithstanding paragraphs A, B and C, tobacco products described in section 4404-B, subsection 1 are subject to seizure under the process described in subsection 3 unless the distributor or remote retail seller can prove the tobacco products are to be exported out of the country.

**Sec. E-26. Application.** This Part applies to tobacco products brought into this State or manufactured or fabricated in this State on or after January 1, 2024.

**Sec. E-27. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF  
Revenue Services, Bureau of 0002**

Initiative: Provides one-time funding for computer programming costs.

<b>GENERAL FUND</b>	<b>2023-24</b>	<b>2024-25</b>
All Other	\$3,920	\$0
<b>GENERAL FUND TOTAL</b>	<u>\$3,920</u>	<u>\$0</u>

**Sec. E-28. Effective date.** This Part takes effect January 1, 2024.

**PART F**

**Sec. F-1. 36 MRSA §191, sub-§2, ¶SSS** is enacted to read:

SSS. The disclosure to the Treasurer of State when necessary for the performance of the Treasurer of State's official duties as administrator under Title 33, chapter 45 of the current mailing address for a taxpayer for purposes of returning unclaimed or abandoned property to the rightful owner or heir, except as prohibited by federal law.

**PART G**

**Sec. G-1. 36 MRSA §1112-C, sub-§3**, as enacted by PL 2021, c. 630, Pt. C, §13, is amended to read:

**3. Penalty Open space penalty.** If land classified as open space under this subchapter is withdrawn from taxation under this subchapter, the assessor shall impose a penalty upon the owner. The penalty is the greater of:

A. An amount equal to the taxes that would have been assessed on the land on the first day of April for the 5 tax years, or any lesser number of tax years starting with the year in which the land was first classified, preceding the withdrawal had that land been assessed in each of those years at its just value on the date of withdrawal less all taxes paid on that land over the preceding 5 years, or any lesser number of tax years starting with the year in which the land was first classified, and increased by interest at the prevailing municipal rate from the date or dates on which those amounts would have been payable; and

B. An amount computed by multiplying the amount, if any, by which the just value of the land on the date of withdrawal exceeds the 100% valuation of the land pursuant to this subchapter on the preceding April 1st by the following rates:

(1) If the land was subject to valuation under this subchapter for 10 years or fewer prior to the date of withdrawal, the rate is 30%; and

(2) If the land was subject to valuation under this subchapter for more than 10 years prior to the date of withdrawal, the rate is 30% reduced by one percentage point for each full year beyond 10 years that the land was subject to valuation under this subchapter prior to the date of withdrawal, except that the minimum rate is 20%.

For purposes of this subsection, just value at the time of withdrawal is the assessed just value of comparable property in the municipality adjusted by the municipality's certified assessment ratio.

**Sec. G-2. 36 MRSA §1112-C, sub-§3-A** is enacted to read:

**3-A. Farmland penalty.** If land classified as farmland under this subchapter is withdrawn from taxation under this subchapter, the assessor shall impose one of the following penalties:

A. If land is withdrawn within 10 years of a transfer from either open space tax classification under this subchapter or tree growth tax classification under subchapter 2-A, the assessor shall impose a penalty equal to the amount calculated under subsection 3; or

B. If the penalty under paragraph A does not apply, the assessor shall impose a penalty upon the owner equal to the taxes that would have been assessed on the land on the first day of April for the 5 tax years, or any lesser number of tax years starting with the year in which the land was first classified, preceding the withdrawal had that land been assessed in each of those years at its just value on the date of withdrawal less all taxes paid on that land over the preceding 5 years, or any lesser number of tax years starting with the year in which the land was first classified, and increased by interest at the prevailing municipal rate from the date or dates on which those amounts would have been payable.

For purposes of this subsection, just value at the time of withdrawal is the assessed just value of comparable property in the municipality adjusted by the municipality's certified assessment ratio.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved, except as otherwise indicated.