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Date: (Filing No. S- )

**TAXATION**

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**STATE OF MAINE  
SENATE  
128TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 633, L.D. 1734, Bill, “An Act To Clarify the Sales Tax Exemption for Vehicles Used in Interstate or Foreign Commerce”

Amend the bill by striking out all of sections 2 and 3 and inserting the following:

**Sec. 2. 36 MRSA §1760, sub-§41-A** is enacted to read:

**41-A. Certain instrumentalities of interstate or foreign commerce.** The sale of a vehicle, railroad rolling stock, aircraft or watercraft that is placed in use by the purchaser as an instrumentality of interstate or foreign commerce within 30 days after that sale and that is used by the purchaser for not less than 80% of the days in use during the next 2 years as an instrumentality of interstate or foreign commerce. The State Tax Assessor may for good cause extend for not more than 60 days the time for placing the instrumentality in use in interstate or foreign commerce.

For purposes of this subsection:

A. Property is placed in use as an instrumentality of interstate or foreign commerce by its carrying of or providing the motive power for the carrying of a bona fide payload in interstate or foreign commerce or by being dispatched to a specific location at which it will be loaded with, or will be used as motive power for the carrying of, a bona fide payload in interstate or foreign commerce.

(1) Property dispatched for the carrying of or providing the motive power for the carrying of a bona fide payload in interstate or foreign commerce is considered in use from the date of dispatch through the date the property arrives back at its principal place of business or is dispatched for the carrying of or providing the motive power for the carrying of a new bona fide payload, whichever occurs first. Any day or portion of a day in which an instrumentality is used in interstate or foreign commerce is computed as a full day of use in interstate or foreign commerce. Property dispatched for the carrying of or providing the motive power for the carrying of a bona fide payload in intrastate commerce is considered in use from the date of dispatch through the date the property arrives back at its principal place of business or is dispatched for the carrying of or

**COMMITTEE AMENDMENT**

1 providing the motive power for the carrying of a new bona fide payload,  
2 whichever occurs first. For purposes of this subparagraph, use of a trailer,  
3 semitrailer or tow dolly, as defined in Title 29-A, section 101, pursuant to a  
4 written interchange agreement as described in 49 Code of Federal Regulations,  
5 Section 376.31, or successor regulation, between the purchaser and an authorized  
6 motor carrier is considered use by the purchaser.

7 (2) For purposes of this subsection, personal property is not in use as an  
8 instrumentality of interstate or foreign commerce when carrying a bona fide  
9 payload that both originates and terminates within the State, unless the personal  
10 property is a bus with a capacity of at least 47 passengers that is engaged in  
11 transporting within the State a bona fide payload of travelers on an interstate or  
12 foreign cruise that originates outside the State and terminates outside the State  
13 and the transportation is provided pursuant to a contract between the interstate or  
14 foreign cruise provider and the person providing the transportation.

15 (3) Any day in which an instrumentality is not used in intrastate commerce or  
16 interstate or foreign commerce, including while being repaired or maintained, is  
17 not counted in the 80% computation; and

18 B. As used in this subsection, unless the context otherwise indicates, the following  
19 terms have the following meanings.

20 (1) "Bona fide payload" means a cargo of persons or property transported by a  
21 contract carrier or common carrier for compensation that exceeds the direct cost  
22 of carrying that cargo or pursuant to a legal obligation to provide service as a  
23 public utility or a cargo of property transported in the reasonable conduct of the  
24 purchaser's own nontransportation business in interstate or foreign commerce.

25 (2) "Dispatch" means to send to a destination for the purpose of interstate or  
26 foreign commerce or for the purpose of intrastate commerce.

27 The exemption provided by this subsection is not limited to instrumentalities otherwise  
28 required to be exempt under the United States Constitution.

29 **Sec. 3. Retroactivity.** Notwithstanding the Maine Revised Statutes, Title 1,  
30 section 302, this Act applies to purchases made on or after January 1, 2012.'

### SUMMARY

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32 This amendment clarifies the calculation of the period during which property eligible  
33 for the sales tax exemption is placed in interstate or foreign commerce or intrastate  
34 commerce. The amendment provides that a trailer, semitrailer or tow dolly being used by  
35 an entity other than the owner is eligible for the exemption as long as there is a written  
36 interchange agreement between the owner and the other entity and the transportation  
37 being provided is interstate in nature. The amendment adds a definition of "dispatch."  
38 The amendment also provides that the changes made in the bill apply retroactively to  
39 purchases made on or after January 1, 2012.

### FISCAL NOTE REQUIRED

**(See attached)**