

**TESTIMONY OF
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DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

Before the Joint Standing Committee on Taxation
Hearing Date: *May 8, 2025, Thursday at 12:30 P.M.*

LD 1807 – *“An Act to Expand the Sales Tax to Luxury Services and Adjust the
Sales Tax on Rental Cars”*

Senator Grohoski, Representative Cloutier, and members of the Taxation Committee – good afternoon, my name is Michael Allen, Associate Commissioner for Tax Policy in the Department of Administrative and Financial Services. I am testifying at the request of the Administration Against LD 1807, *“An Act to Expand the Sales Tax to Luxury Services and Adjust the Sales Tax on Rental Cars.”*

This bill would make three significant changes to the sales tax. First, it would increase the sales tax rate imposed on the short-term rental of an automobile from 10% to 15%. Second, it would eliminate the exemption from sales tax for short-term automobile rentals associated with car dealership-initiated loaner vehicles. Third, the bill would expand the category of taxable services subject to sales tax to include the charter of a private aircraft or helicopter; the rental of a limousine or luxury car; and the charter of a watercraft in excess of 25 feet.

The Administration opposes LD 1807 because the proposed narrow sales tax base expansion is not well targeted, has definitional issues that should be addressed for efficient tax administration and compliance, and with respect to waterways raises certain federal limitation issues.

With respect to the federal limitation issue, the Committee should note that the bill’s proposed expansion of the sales tax base to include certain charters

presents both federal constitutional preemption issues regarding federal navigable waters. As a broad general statement, federal law 33 U.S.C. § 5(b), provides that states may not levy or collect taxes and fees on or from watercraft, and its passengers and crew, with respect to operation of the watercraft on federal navigable waters, with certain exceptions.

Similar questions may be presented and need to be addressed by the bill with respect to certain categories of aircraft charters. Additional research is required on that point. Further, and more generally, transportation charters that do not both originate and terminate in Maine may be subject to sales tax but, as with other sales taxes, may constitutionally require allowance of a credit for tax paid to another jurisdiction, or similar measure.

I will turn next to several important technical considerations. The term “charter” should be defined to differentiate or include a lease or rental. The bill should also clearly identify what constitutes a “private” chartered aircraft. “Helicopter” can further be struck from proposed § 1752(17-B)(E) since, under the Sales and Use Tax Law, the term “aircraft” is defined to include a helicopter.

The bill should define the terms “limousine” and “luxury car.” The rental of a “luxury car” may include, for example, a ridesharing app service marketed as providing premium or luxury cars for hire. If “luxury car” is undefined, ridesharing companies may have difficulty determining which hired vehicles are “luxury cars” subject to tax. Additionally, if the “rental of a limousine or luxury car” is intended to include rentals in which the car is operated *not* by a hired driver but by the lessee, the short-term rental of an economy car would be taxed at the new rate of 15%, while the short-term rental of a luxury car would be taxed at 5.5%. Further, the Committee should note that “limousine” is defined in Title 29-A to mean “a vehicle for hire, with a driver, that is used for the transportation of

passengers and that has a seating capacity of at least 5 and no more than 14 persons behind the driver.” 29-A M.R.S. § 101(32). This definition likely would include many vans and small buses.

Finally, the bill would also repeal the exemption for the short-term rental of automobiles to a new vehicle dealer’s service customers, pursuant to a manufacturer’s or new vehicle dealer’s warranty, when the rental fee is paid by the dealer or warrantor, requiring the dealer to pay the 15% sales tax rate on that transaction. 36 M.R.S. § 1760(92). The Committee should note that the bill does not repeal the exemption from sales tax for a new vehicle dealer’s use of its own loaner vehicle when provided to service customers (36 M.R.S. § 1760(21-A)).

If expanding the currently narrow sales tax base to include more services is desired, a full review of services should be done. The narrow group of “luxury” services in this bill are not well targeted, have definitional issues, and are affected by federal limitations on state taxation of watercraft operating in federal navigable waters. Further, increasing the tax rate on short-term rentals of automobiles will fall heavily on Maine residents, as most visitors to Maine come by automobile. For these reasons the Administration opposes LD 1807.

The estimated fiscal costs are not available at this time.

The estimated administrative costs are not available at this time.

The Administration looks forward to working with the Committee on the bill; representatives from MRS will be here for the Work Session to provide additional information and respond in detail to the Committee’s questions.