



Maine Beverage Distributors Association

April 9, 2025

LD 1330 An Act to Clarify That a Business's License or Subscription to Use Software Is Not Considered a Lease for the Purposes of Sales and Use Tax

Sen. Grohoski, Cloutier and members of the Taxation Committee, my name is Cheryl Timberlake, I am a resident of Mount Vernon. I represent the Maine Beverage Distributors, family owned and operated businesses.

MBDA members, many of whom have been in operation for more than 80 years, provide distribution of beer, wine and non-alcoholic beverages to EVERY retail account including bars, restaurants and grocery stores located throughout the state. We employ more than 1,250 Maine people. Our Association is committed to the laws and regulations governing the sales and distribution of alcoholic beverages.

The Association is here today to testify in support of LD 1330.

Maine law regarding the tax on the rental of tangible personal property changed on January 1, 2025 with the passage of LD 2000. One of the issues that has surfaced this year is the new treatment of the taxation of certain lease transactions. For example, SAAS- software as a service is now taxed.

In an effort to implement the new law, MRS has issued proposed rules on the new law, and is seeking comment by April 21, 2025.

The lease or rental sales tax issue on computer software is confusing. Several CFOs for the distributors reviewed the rules; their comments indicated much ambiguity.

MBDA members use beverage specialty software called the VIP -Vermont Information Processing is a specialized computer software that provides pricing, accounts receivables, accounts payable, routing logistics and other tracking specifics for purchasing, deliveries and sales.

Section 1. Definitions to be confusing and conflicting with **Section 9. Computer software and products transferred electronically**. Specifically, this:

2. Lease or rental. "Lease or rental." which has the same meaning as in 36 M.R.S. § 1752(5-D) and includes the terms "lease" and "rental." means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration and may include future options to purchase the property or extend the lease or rental. "Lease or rental" includes a sublease and subrental.

"Lease or rental" does not include:

A. Leases and contracts payable by rental or license fees for the right of possession and use when such leases and contracts are determined by the assessor to be "in lieu of purchase:"

SECTION 9. Computer software and products transferred electronically.

1. Products transferred electronically. When a product transferred electronically is transferred to the purchaser (e.g. downloadable to the purchaser's computer hardware or other device), the sale, lease, rental, or license of the product is a taxable sale of tangible personal property.

MBDA members have an arrangement with VIP is that they license their product and that license provides access to the software and servers. The current law and the proposed rules would suggest that these would be taxed under sales and use tax law as tangible personal property.

The clarification provided in LD 1330 addresses the license issue of VIP. In addition, we wonder if other software would also be impacted- Adobe Products that are used for marketing and promotional materials at retail.

We appreciate the committee's time and consideration. I am happy to answer any questions.