

STATE OF MAINE

Interdepartmental Memorandum

January 24, 2012

To: The Joint Standing Committee on Taxation

From: Michael J. Allen, Director of Econometric Research, Maine Revenue Services (MRS)

Subject: LD 1764 – An Act to Prohibit Computer Software Programs Used To Evade Sales Tax

Primary Sponsor: Representative Seth Berry

Estimated Revenue Impact: Enactment of this bill will help preserve the current baseline forecast for sales and income taxes.

Estimated Administrative Cost Impact: Can be absorbed within current budgetary allotments.

Identified Issues:

- While there appears to be evidence that “zappers” have become a serious problem in Quebec and in some European countries, MRS has not encountered them in Maine and does not know if they are currently having a significant impact on state tax revenues. It may be that the “review and report” requirements found in Section 3 of the bill should be mandated before a new provision is added to the Maine Criminal Code (Title 17-A).
- The statute does already provide criminal penalties for intentionally failing to collect, truthfully account for and pay any tax imposed by Title 36 (including sales tax), or to intentionally evade or defeat “in any manner” any tax imposed by Title 36; if the amount of tax evaded is more than \$2,000, the evasion is a Class C crime. See Title 36 §§184, 184-A.
- The use in this state of an automated sales suppression device or “phantom ware” may well be an unfair or deceptive act or practice under the Maine Unfair Trade Practices Act, Title 5 Chapter 10. The Taxation Committee may want to solicit input from the Office of the Attorney General on this point.
- If a new provision is to be added to the Maine Criminal Code, the Taxation Committee may want to solicit input from the Criminal Law Advisory Commission (see T. 17-A, Chapter 55).
- MRS is prepared to work with the Taxation Committee on the details of the bill.

Similar Legislative Proposals: None.

cc (by e-mail): Office of Fiscal & Program Review
Office of DAFS Commissioner
Office of the Attorney General
Office of Policy & Legal Analysis

State Budget Office
Office of the Governor
Revisor's Office
Office of Information Technology