20 June 2017

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature,

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1405, "An Act To Require Remote Sellers To Collect and Remit Sales and Use Tax on Sales into Maine."

It has long been my view that Maine retailers can compete and win against even the very best out-of-state companies, provided they are competing on an equal playing field.

In 2013, I signed into law LD 346, "An Act Concerning the Collection of Sales Tax by Any Businesses Making Sales to Persons in Maine." This law requires companies that have affiliate programs to register and collect Maine sales tax on sales to Maine customers. In response to its passage, a number of retailers deliberately ended their affiliate programs with Maine residents and businesses to avoid collecting our sales tax. I am concerned that allowing LD 1405 to go into law will similarly cause small online retailers to cease selling their products to residents of the State of Maine.

Additionally, this legislation positions Maine in conflict with the U.S. Supreme Court’s ruling in Quill Corp. v. North Dakota, 504 U.S. 298 (1992), which prohibits states from imposing a sales tax collection duty on retailers who have no physical presence within their borders. While I believe this decision should be overturned, I consider it unwise for Maine to become a national outlier and needlessly expose the state to litigation.

The establishment of nexus for the purpose of sales tax collection is a complex issue that requires a comprehensive approach. That is why I have supported the federal Marketplace Fairness Act and urged Maine’s congressional delegation to support its passage. This legislation would enable state governments to collect sales taxes and use taxes from remote retailers with no physical presence in their state.

For these reasons, I return LD 1405 unsigned and vetoed. I encourage the Legislature to join me in calling for a federal solution to this national problem and urge you to sustain my veto.

Sincerely,

Paul R. LePage
Governor