

OFFICE OF FISCAL AND PROGRAM REVIEW

Date: April 5, 2013
To: Members, Joint Standing Committee on Taxation
From: Elizabeth Cooper, Legislative Analyst

LD 741, An Act To Promote Fairness in the Sales Tax Exemption for Vehicles Used in Interstate Commerce

Summary: This bill provides a sales tax exemption for vehicles used in interstate or foreign commerce, including those without operating authority under 49 Code of Federal Regulations, Section 392.9a.

Public Hearing:

Proponents

- The sponsor presented the bill and provided written testimony.
- A representative of the Maine Motor Transportation Association testified in support of the bill.
- *Major points:* purchase of truck for use in Interstate Commerce is not subject to sales tax; truck owner who works under another company's authority is subject to sales tax; same job – only thing different is federal operating authority; American Trucking Association estimates 30 state have sales tax exemption – believe Maine is only one that does not grant it.

Opposed - none

NFNA- none

Additional information attached:

- U.S. Dept of Transportation information on operating authority
- Bill summary of PL 2011, chapter 643, which standardized the definition of independent contractor
- Additional information including the predetermination form developed by the Worker's Compensation Board that forms a rebuttable presumption (provided by Maine Motor Transport Association in response to Committee request)

Issues: Should the Committee choose to move forward with this bill, members may want to consider the reason Maine Revenue Services uses operating authority in determining whether a vehicle was placed in use by the purchaser as an instrumentality of interstate or foreign commerce; may want to seek a legal opinion on the case law surrounding this issue.

Fiscal Information: The preliminary fiscal impact statement was not available at the time this analysis was finalized. The most current fiscal information can be found online at: www.mainelegislature.org/LawMakerWeb/search.asp.