

## OFFICE OF FISCAL AND PROGRAM REVIEW

Date: March 25, 2013  
To: Members, Joint Standing Committee on Taxation  
From: Elizabeth Cooper, Legislative Analyst

### **LD 346, An Act To Provide Tax Fairness to Small Businesses in the State**

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**Summary:** This bill creates a presumption of nexus if the seller has persons affiliated with the seller with substantial presence in the State or has an agreement with a person to refer potential customers to the seller and the seller generates more than \$10,000 in sales in the State annually. Both presumptions may be rebutted. This bill also requires any agreement or ruling by the Governor or an executive branch department or agency that allows a seller to avoid registering as a seller to be approved by both Houses of the Legislature.

#### **Public Hearing:**

##### Proponents

- The sponsor presented the bill and provided written testimony.
- Those testifying in support of the bill include legislators co-sponsoring the bill and representatives from: Maine Veterinary Medical Association, Marketplace at Augusta, Main Street Fairness Coalition, Augusta Downtown Alliance, the Governor's Office, Retail Association of Maine, State Chamber of Commerce, Retail Lumber Dealers Association of Maine, Maine Grocers' Association, Maine Municipal Association, several business owners and representatives of individual businesses or corporations.
- *Major points:* not a new tax – if sales tax not collected at time of purchase then the purchaser owes a use tax; matter of fairness to local business; many states have passed legislation and are working on this issue; federal legislation is pending.
- Maine Retail Association provided a summary of recent initiatives in other states and a 2012 study projecting that e-commerce retail sales has the potential to generate between \$17.8 million and \$28.1 million in state taxes.
- A complete list of those testifying is on back of this sheet; complete testimony is online at: <http://www.mainelegislature.org/legis/bills/testimony.html?PID=1456>.) *Most of those testifying offer support to LD 346 and LD 319.*

Opposed - none

NFNA- none

**Request:** Out-of-state sellers that already collect tax; how fits in with Quill decision; efforts of other states and federal legislation.

**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](http://www.mainelegislature.org/LawMakerWeb/search.asp).