

STATE OF MAINE

Interdepartmental Memorandum

January 17, 2012

**To:** The Joint Standing Committee on Taxation

**From:** Peter B. Beaulieu, Director of Sales, Fuel and Special Tax Division,  
Maine Revenue Services (MRS)

**Subject:** LD 1610 – An Act to Amend the Laws Regarding the Sale of Wood Pellets

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**Primary Sponsor:** Representative Jonathan McKane.

**Estimated Revenue Impact:** Revenue loss - less than \$50,000 annually.

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

**Identified Issues:**

- The 200 pound presumption in current law was proposed by Maine Revenue Services and enacted by the 124th Legislature. The purpose was to eliminate the need to document every over-the-counter transaction to confirm the purchase was being made for residential use. This level was chosen because wood pellets are typically sold by retail dealers in 40-pound bags, and it was thought that if an individual homeowner made an over-the-counter purchase, the homeowner would generally purchase a small number of bags in any given transaction. Retailers may also currently make tax-free over-the-counter sales in amounts **greater** than 200 pounds provided that the customer provides an affidavit of residential use and the retailer has no reason to believe that the customer is not purchasing the pellets for residential use.
- Residential delivery sales of wood pellets are exempt under current law since the delivery address documents the fact that the pellets are for residential use. No other documentation is necessary for these deliveries nor is there any reason to apply a presumption.
- Administration by MRS of the 5-gallon threshold that applies to purchases of kerosene and home heating oil is treated in the same way; see MRS Instructional Bulletin No. 13 ("Sales of Fuel and Utilities").
- If the presumption for residential use increases to 2000 pounds, a retailer would be allowed to exempt over-the-counter sales between 200 and 2000 pounds to commercial users as well, although the commercial user would have a responsibility to report the use tax on those purchases. There is a risk that use tax in these situations will not be reported.

**Similar Legislative Proposals:** None.

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