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Date: (Filing No. S- )

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**STATE OF MAINE**  
**SENATE**  
**125TH LEGISLATURE**  
**SECOND REGULAR SESSION**

SENATE AMENDMENT “ ” to COMMITTEE AMENDMENT “B” to H.P. 187, L.D. 234, Bill, “An Act To Provide a Sales Tax Exemption to Commercial Horticulturists”

Amend the amendment by striking out everything after the title and before the summary and inserting the following:

'Amend the bill by striking out the title and substituting the following:

**'An Act To Require Retailers with an Affiliate Nexus To Collect Sales Tax'**

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

**'Sec. 1. 36 MRSA §1754-B, sub-§1, ¶B,** as enacted by PL 1995, c. 640, §3, is repealed and the following enacted in its place:

B. Every seller of tangible personal property or taxable services that does not maintain a place of business in this State but makes retail sales in this State or solicits orders, by means of one or more salespeople, independent contractors, representatives or affiliates within this State, for retail sales within this State.

(1) A seller is presumed to be soliciting business through a salesperson, independent contractor, representative or affiliate if the seller enters into an agreement with a resident of this State under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on a website or otherwise, to the seller and the cumulative gross receipts from sales by the seller to customers in the State who are referred to the seller by all residents of the State with this type of agreement with the seller exceed \$10,000 during the preceding 4 quarterly filing periods ending on the last day of March, June, September and December.

(2) A seller may rebut the presumption under subparagraph (1) by demonstrating that the resident of this State with whom the seller has an agreement did not engage in any solicitation in the State on behalf of the seller that would satisfy the nexus requirement under the United States Constitution during the preceding 4 quarterly filing periods;

**SENATE AMENDMENT**

