

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

1  
2  
  
3  
4  
5  
6  
  
7  
8  
9  
  
10  
11  
12  
  
13  
14  
15  
  
16  
17  
18  
19  
  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
  
34  
35  
36  
37

L.D. 276

(Filing No. H-53 )

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
112TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 235, L.D. 276,  
Bill, "AN ACT to Establish Policies Governing Smoking  
in Places of Work."

Amend the bill in that part designated "§1580-A."  
in subsection 2, paragraph A by inserting at the end  
the following new sentence:

'A business facility shall not include any workplace  
or portion of a workplace which also serves as the  
employee's or employer's personal residence.'

Further amend the bill in that part designated  
"§1580-A." in subsection 2, paragraph D, in the 4th  
line, (page 2, line 13 in L.D) by inserting before  
the underlined word "smoke" the word 'tobacco'

Further amend the bill in that part designated  
"§1580-A." in subsection 3, by striking out the first  
2 sentences (page 2, lines 14 to 21 in L.D.) and in-  
serting in their place the following: 'Each employer  
shall establish, or may negotiate through the collec-  
tive bargaining process, a written policy concerning  
smoking and nonsmoking by employees in that portion  
of any business facility for which he is responsible.  
In order to protect the employer and employees from  
the detrimental effects of smoking by others, the  
policy shall prohibit smoking except in designated  
smoking areas. The policy may prohibit smoking  
throughout the business facility. The employer shall  
post and supervise the implementation of the policy.'

Further amend the bill in that part designated  
"§1580-A." in subsection 3, by adding at the end of  
the first paragraph a new sentence to read: 'Nothing  
in this section may be construed to subject an em-

COMMITTEE AMENDMENT "A" to H.P. 235, L.D. 276

1 ployer to any additional liability, other than lia-  
2 bility which may exist by law, for harm to an employ-  
3 ee from smoking by others in any business facility  
4 covered by this section.'

5 Further amend the bill in that part designated  
6 "§1580-A." in subsection 4 in the 2nd line, (page 2,  
7 line 31 in L.D.) by striking out the underlined word  
8 "enforce" and inserting in its place the underlined  
9 words 'supervise the implementation of'

10 Further amend the bill in that part designated  
11 "§1580-A." in subsection 5 in the 4th line, (page 2,  
12 line 38 in L.D.) by striking out the underlined word  
13 "common"

14 Further amend the bill in that part designated  
15 "§1580-A." by striking out subsections 6 and 7 and  
16 inserting in their place the following:

17 '6. Discharge, discipline or discrimination  
18 against employees. It is unlawful for any employer  
19 to discharge, discipline or otherwise discriminate  
20 against any of its employees because that employee  
21 has assisted in the supervision or enforcement of  
22 this section.

23 7. Application. This section does not apply to  
24 any business facility where policies concerning smok-  
25 ing have been mutually agreed upon by employer and  
26 all the employees.'

27 STATEMENT OF FACT

28 This amendment makes the following changes in the  
29 bill:

30 1. Excludes from the Act that portion of a  
31 workplace which also serves as a person's home;

COMMITTEE AMENDMENT "A" to H.P. 235, L.D. 276

1           2. Clarifies the definition of smoking to ensure  
2           it is limited to tobacco smoke;

3           3. Amends the provisions concerning collective  
4           bargaining to ensure that this bill neither requires  
5           the details of a smoking policy to be bargained nor  
6           prohibits it. In either case, the policy must comply  
7           with the minimum standards of the Act;

8           4. Adds language to ensure that an employer is  
9           not required to have a smoking area;

10          5. Exempts an employer from any liability, other  
11          than liability which may exist by law, for harm to an  
12          employee from smoking by others in any business fa-  
13          cility covered by the bill;

14          6. Amends the responsibility of the employer  
15          from that of enforcement of the policy to supervision  
16          of the policy's implementation;

17          7. Deletes an unnecessary word in the Maine Re-  
18          vised Statutes, Title 22, section 1580-A, subsection  
19          5;

20          8. Clarifies the language regarding discharge of  
21          employees to provide that action against an employee  
22          is only forbidden by the bill if the action is taken  
23          because of that employee's assistance in the supervi-  
24          sion or enforcement of the bill. Action taken for  
25          other reasons is not affected by this bill; and

26          9. Clarifies the mutual agreement provision to  
27          ensure that it requires the agreement of all the em-  
28          ployees.

29          This legislation will not require an appropria-  
30          tion. The Bureau of Health will be able to adminis-  
31          ter the provisions of this Act with available re-  
32          sources.

∞∞

2860032785

Reported by the Majority of the Committee on Human Resources  
Reproduced and distributed under the direction of the Clerk  
of the House