

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
3
5
7
9
11
13
15
17
19
21
23
25
27
29
31
33
35
37
39
41
43
45
47

STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 970, L.D. 1348, Bill, "An Act to Protect Children from Illegal Tobacco Sales"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 15 MRSA §3103, sub-§1, ¶C-1 is enacted to read:

C-1. Offenses involving cigarettes or tobacco products, as provided in Title 22, section 1579 and offenses involving cigarettes as provided in Title 22, section 1629;

Sec. 2. 15 MRSA §3103, sub-§1, ¶D, as amended by PL 1981, c. 679, §3, is further amended to read:

D. If a juvenile is adjudicated to have committed an action described in paragraph B, ~~or C~~, or C-1 willful refusal to pay a resulting fine or willful violation of the terms of a resulting probation;

Sec. 3. 15 MRSA §3105-A, sub-§2, ¶C, as repealed and replaced by PL 1987, c. 769, Pt. A, §54, is amended to read:

C. A prosecution for conduct specified in section 3103, subsection 1, paragraph B, C, C-1, D, E or F shall be commenced within one year after it is committed.

Sec. 4. 15 MRSA §3201, sub-§3, as enacted by PL 1979, c. 681, §8, is amended to read:

3. Enforcement of other juvenile crimes. A law enforcement officer who has probable cause to believe that a juvenile crime, as defined by section 3103, subsection 1, paragraphs paragraph B, ~~or C~~, or C-1 has been committed may request that the juvenile

1 provide the officer with reasonably credible evidence of his the
2 juvenile's name, address and age. The evidence may consist of
3 oral representations by the juvenile. If the juvenile furnishes
4 the officer with evidence of his the juvenile's name, address and
5 age and the evidence does not appear to be reasonably credible,
6 the officer shall attempt to verify the evidence as quickly as is
7 reasonably possible. During the period the verification is being
8 attempted, the officer may require the juvenile to remain in-his
9 presence present for a period not to exceed 2 hours.

11 After informing the juvenile of the provisions of this
12 subsection, the officer may arrest the juvenile for a crime
13 defined in section 3103, subsection 1, paragraph B, ~~or C~~, or C-1
14 if the juvenile intentionally refuses to furnish any evidence of
15 his the juvenile's name, address and age, or if, after attempting
16 to verify the evidence as provided for in this subsection, the
17 officer has probable cause to believe that the juvenile has
18 intentionally failed to provide reasonably credible evidence of
19 his the juvenile's name, address and age.

21 **Sec. 5. 15 MRSA §3307, sub-§2, ¶B**, as amended by PL 1981, c.
22 361, is further amended to read:

23
24 B. The general public shall be excluded from all other
25 juvenile hearings and proceedings, except that a juvenile
26 charged with a juvenile crime that would constitute murder
27 or a Class A, Class B or Class C offense and with a juvenile
28 crime that would constitute a juvenile's first Class D
29 offense or Class E offense or with conduct described in
30 section 3103, subsection 1, paragraph B, C, C-1, D or E,
31 arising from the same underlying transaction may elect to
32 have all charges adjudicated in one hearing, and, where a
33 juvenile does so elect, the general public shall not be
34 excluded from that hearing.

35
36 **Sec. 6. 15 MRSA §3314, sub-§1, ¶G**, as repealed and replaced by
37 PL 1979, c. 681, §30, is amended to read:

38 G. Except for a violation of section 3103, subsection 1,
39 paragraph D, the court may impose a fine, subject to Title
40 17-A, sections 1301 to 1305. For the purpose of this
41 section, juvenile offenses defined in section 3103,
42 subsection 1, paragraphs B, and C, and C-1, shall be deemed
43 Class E crimes.

44
45 **Sec. 7. 17-A MRSA §554, sub-§2, ¶A**, as enacted by PL 1975, c.
46 499, §1, is amended to read:

47
48 A. The defendant was the parent, foster parent, guardian or
49 other similar person responsible for the long-term general
50 care and welfare of a child under the age of 16 who
51

1 furnished such child cigarettes, tobacco or a reasonable
2 amount of intoxicating liquor in the actor's home and
3 presence; or

5 Sec. 8. 22 MRSA §1579, as enacted by PL 1983, c. 239, is
6 repealed and the following enacted in its place:

7
8 §1579. Prohibition

9
10 1. Sale and distribution; penalty. No person may knowingly
11 sell, furnish, give away or offer to sell, furnish or give away
12 cigarettes or any other tobacco product to any person under the
13 age of 18 years. No person in the business of selling or
14 otherwise distributing cigarettes or other tobacco products for
15 profit nor an employee or agent of such a person may, in the
16 course of that person's business, distribute free any cigarette
17 or other tobacco product to any person under the age of 18 years
18 in any place, including, but not limited to, a public way or
19 sidewalk, public park or playground, public school or other
20 public building, or an entranceway, lobby, hall or other common
21 area of a private building, shopping center or mall.

22 Any person who violates this subsection commits a civil violation
23 for which a forfeiture of not less than \$10 nor more than \$100
24 shall be adjudged for any one offense. Any person who employs a
25 person who violates this subsection commits a civil violation for
26 which a forfeiture of not less than \$100 nor more than \$1,000
27 shall be adjudged. In all cases of violations the court shall
28 impose a forfeiture which shall not be suspended, except pursuant
29 to Title 15, section 3314.

30
31 It is an affirmative defense to prosecution under this subsection
32 that the defendant was the parent, foster parent, guardian or
33 other similar person responsible for the long-term general care
34 and welfare of the person under the age of 18 years who furnished
35 that person with cigarettes or any other tobacco product in the
36 defendant's home for use in the defendant's home. It is an
37 affirmative defense to prosecution under this subsection that the
38 defendant sold cigarettes or any other tobacco product to a
39 person under the age of 18 years who furnished fraudulent proof
40 of age.

41
42 2. Prohibition; purchase by minors; penalty. It shall be
43 unlawful for any person under the age of 18 years to:

44
45 A. Purchase cigarettes or any other tobacco product; or

46
47 B. Accept or have possession of cigarettes or any other
48 tobacco product, except in the scope of that person's
49 employment or in that person's own home in the presence of
50 that person's parent, foster parent, guardian or other
51 similar person responsible for the long-term general care
52 and welfare of the person under the age of 18 years.

1
3
5
7
9
11
13
15
17
19
21
23
25
27
29
31
33
35
37
39
41
43
45
47
49
51

Any person who violates this subsection commits a civil violation for which a forfeiture of not less than \$10 nor more than \$50 may be adjudged for each violation. The judge, as an alternative to or in addition to the civil forfeitures permitted by this subsection, may assign the violator to perform specified work for the benefit of the State, the municipality or other public entity or a charitable institution.

3. Display of prohibition against sales to minors. All dealers and distributors of tobacco products shall post notice of this section prohibiting tobacco sales to persons under the age of 18 years. Notices shall be publicly and conspicuously displayed in the dealers' or distributors' places of business in letters at least 3/8 inches high. Signs required by this section may be provided at cost by the Bureau of Liquor Enforcement. Any person who violates this subsection commits a civil violation for which a forfeiture of not less than \$50 nor more than \$200 may be adjudged for any one offense.

Sec. 9. 22 MRSA §1628, sub-§2, as enacted by PL 1987, c. 127, is amended to read:

2. Violation. It is unlawful for any person, firm or corporation to knowingly distribute or sell cigarettes by the use of a vending machine to minors or in a location other than a location that is generally-supervised at all times under direct supervision by an adult during the hours the machine is accessible.

Sec. 10. 22 MRSA c. 265-C is enacted to read:

CHAPTER 265-C

SALE OF UNPACKAGED CIGARETTES

§1629. Sale of unpackaged cigarettes

1. Prohibition. No person may sell cigarettes except in the original, sealed package in which they were placed by the manufacturer nor may any person sell cigarettes in smaller quantities than placed in the package by the manufacturer.

2. Penalty. Any person who violates this section commits a civil violation for which a forfeiture of not less than \$10 nor more than \$100 shall be adjudged. Any person who employs a person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$1,000 shall be adjudged. In all cases of violations the court shall impose a forfeiture which shall not be suspended, except pursuant to Title 15, section 3314.'

1
3
5
7
9
11
13
15
17
19
21
23

STATEMENT OF FACT

This amendment eliminates the provisions of the original bill dealing with licensing and registering persons who sell tobacco and increasing the responsibilities of the Department of Finance, Bureau of Liquor Enforcement and Bureau of Alcoholic Beverages to include tobacco. It keeps the provisions of the bill which prohibit furnishing or selling cigarettes or tobacco products to those under 18 and prohibit purchase or possession of cigarettes or tobacco products by those under 18. This amendment also retains the provision requiring stores to post notices of the prohibition of tobacco sales to minors.

The amendment adds a provision which tightens the law regarding vending of tobacco products and another which prohibits the sale of cigarettes in quantities less than those in which the manufacturer packaged them. It provides that persons under 18 who violate the prohibitions on cigarette and tobacco product sales and purchases will be dealt with under the provisions of the Maine Juvenile Code, the Maine Revised Statutes, Title 15, Part 6, and through the Juvenile Court.

Reported by the Committee on Business Legislation
Reproduced and distributed under the direction of the Clerk of the House
6/14/89

(Filing No. H-518)