

MAINE STATE LEGISLATURE

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L.D. 1901

DATE: 3/15/06

(Filing No. H-830)

HEALTH AND HUMAN SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1342, L.D. 1901, Bill, "An Act To Amend the Law Regarding Smoking in Private Clubs"

Amend the bill by striking out all of section 1 (page 1, lines 24 to 35 in L.D.) and inserting in its place the following:

Sec. 1. 22 MRSA §1580-A, sub-§2, ¶C-2 is enacted to read:

C-2. "Qualifying club" means a veterans' service organization chartered under 36 United States Code, Subtitle II, Part B (2004) that is not open to the public or any other club that was not open to the public and that was in operation prior to January 1, 2004.

Sec. 2. 22 MRSA §1580-A, sub-§7, as amended by PL 2005, c. 338, §6, is further amended to read:

7. Application. This section does not apply to a business facility that is a veterans' service organization chartered under 36 United States Code, Subtitle II, Part B (2004) that is not open to the public or to any other club that was not open to the public and that was in operation prior to January 1, 2004, if policies concerning smoking have been mutually agreed upon by the employer and all the employees and the veterans' service organization or the club:

A. Has written procedures ensuring that only the employer and employees, members and invited guests accompanied by a member are allowed entry to the premises; and

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2 B. Demonstrates by a written secret ballot vote taken at
4 least once every 3 years that a majority of the members have
6 voted to allow smoking. The date of the vote must be
8 announced to all members at least 14 days prior to the
vote. All ballots cast in the vote must be kept on file for
at least 3 years and made available to the Bureau of Health
upon request.

10 This subsection is repealed August 1, 2008.

12 Sec. 3. 22 MRSA §1580-A, sub-§9 is enacted to read:

14 9. Exception. Beginning August 1, 2006, and
16 notwithstanding any provision to the contrary in this section, a
18 qualifying club may allow smoking in its business facility in
accordance with the following provisions.

20 A. Policies concerning smoking must have been mutually
agreed upon by the employer and all the employees.

22 B. The qualifying club must have met the requirements of
24 this paragraph.

26 (1) The qualifying club must have written policies
28 allowing onto the premises only the employer and
employees, members and invited guests accompanied by a
member.

30 (2) A vote in favor of smoking has been conducted
32 according to the following provisions:

34 (a) The qualifying club must provide all members
36 notice of the date of the vote at least 30 days
38 prior to the vote and an opportunity for an
absentee ballot. Information designed to
influence the vote of the member may not be
provided with the notice and the absentee ballot;

40 (b) Members may not be subjected to undue
42 influence regarding the vote;

44 (c) A majority of all valid ballots received must
be in favor of smoking; and

46 (d) The ballot and procedures for voting and
48 making available, collecting and counting absentee
ballots must meet the requirements established by
rule adopted by the Maine Center for Disease

2008

Control and Prevention.

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(3) The qualifying club must have provided written notice to the Maine Center for Disease Control and Prevention of the results of the vote within 30 days of the vote.

C. The qualifying club may allow smoking under authority of this subsection for no longer than 3 years from the date of the vote.

D. The qualifying club may revoke under this subsection at any time.

E. The qualifying club must have retained all ballots for at least 3 years and make them available to the Maine Center for Disease Control and Prevention upon request.

F. The Maine Center for Disease Control and Prevention shall adopt rules to implement this subsection. Rules adopted pursuant to this subparagraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 4. Transition. The provisions of the Maine Revised Statutes, Title 22, section 1580-A, subsection 9 apply to all votes to allow smoking in a qualifying club as defined in section 1580-A, subsection 2, paragraph C-2, except that a qualifying club that held a vote in favor of smoking under authority of Title 22, section 1580-A, subsection 7 between July 1, 2005 and August 1, 2006 may allow smoking under authority of that vote until August 1, 2008.'

SUMMARY

This amendment replaces section 1 of the bill. It allows smoking in qualifying clubs if a majority of all valid ballots cast by members and received by a qualifying club are in favor of smoking. This is a change from current law, which in order to allow smoking requires a vote in favor of smoking by a majority of all members. The amendment sets certain standards for the vote, including a 30-day notice, absentee ballots and notification to the Maine Center for Disease Control and Prevention. The amendment provides for a transition for qualifying clubs that have satisfied current law. The amendment directs the Maine Center for Disease Control and Prevention to adopt rules and designates those rules as major substantive

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2 rules. The amendment provides transition provisions for
qualifying clubs that conducted votes in favor of smoking prior
to August 1, 2006.

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FISCAL NOTE REQUIRED
(See attached)

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COMMITTEE AMENDMENT



122nd MAINE LEGISLATURE

LD 1901

LR 2586(02)

An Act To Amend the Law Regarding Smoking in Private Clubs

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Health and Human Services

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional costs to the Department of Health and Human Services in implementing this bill can be absorbed by the department utilizing existing budgetary resources.