

MAINE STATE LEGISLATURE

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Date: 6/7/19

MAJORITY

(Filing No. S-230)

HEALTH AND HUMAN SERVICES

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STATE OF MAINE

SENATE

129TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 364, L.D. 1190, Bill, "An Act To Prohibit the Sale and Distribution of Flavored Tobacco Products"

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

'An Act To Prohibit the Furnishing of Tobacco Products to Minors'

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

'Sec. 1. 17-A MRSA §554, sub-§1, ¶B, as amended by PL 2015, c. 358, §3, is further amended to read:

B. Knowingly sells, furnishes, gives away or offers to sell, furnish or give away to a child under 16 years of age any intoxicating liquor, ~~cigarettes~~, tobacco product as defined in Title 22, section 1551, subsection 3, air rifles, gunpowder, smokeless powder or ammunition for firearms. Violation of this paragraph is a Class D crime;

Sec. 2. 17-A MRSA §554, sub-§2, ¶A, as amended by PL 2015, c. 358, §3, is further amended to read:

A. The defendant was the parent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of the child under 16 years of age who furnished the child ~~cigarettes~~, any tobacco product as defined in Title 22, section 1551, subsection 3 or a reasonable amount of intoxicating liquor in the actor's home and presence;

Sec. 3. 22 MRSA §1580-F is enacted to read:

§1580-F. Furnishing or allowing consumption of tobacco products by certain persons prohibited

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

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1 A. "Minor" means a person who has not reached the age of 21 years, unless the
2 person has attained 18 years of age as of July 1, 2018.

3 B. "Tobacco product" has the same meaning as in section 1551, subsection 3.

4 **2. Offense.** Except as provided in subsection 3, a person who is 21 years of age or
5 older may not knowingly:

6 A. Procure, or in any way aid or assist in procuring, furnish, give, sell or deliver a
7 tobacco product for or to a minor. The following penalties apply to violations of this
8 paragraph.

9 (1) A person who violates this paragraph commits a Class D crime.

10 (2) A person who violates this paragraph commits a Class D crime for which a
11 fine of not less than \$500 may be imposed, none of which may be suspended, if
12 the violation involves a minor who is less than 18 years of age.

13 (3) A person who violates this paragraph after having been previously convicted
14 of violating this paragraph or paragraph B within a 6-year period commits a Class
15 D crime for which a fine of not less than \$1,000 may be imposed, none of which
16 may be suspended.

17 (4) A person who violates this paragraph after having been previously convicted
18 of violating this paragraph or paragraph B 2 or more times within a 6-year period
19 commits a Class D crime for which a fine of not less than \$1,500 may be
20 imposed, none of which may be suspended; or

21 **B.** Allow a minor under that person's control or in a place under that person's control
22 to possess or consume a tobacco product. The following penalties apply to violations
23 of this paragraph.

24 (1) A person who violates this paragraph commits a Class D crime.

25 (2) A person who violates this paragraph commits a Class D crime for which a
26 fine of not less than \$1,000 may be imposed, none of which may be suspended, if
27 the violation involves a minor who is less than 18 years of age.

28 (3) A person who violates this paragraph after having been previously convicted
29 of violating this paragraph or paragraph A within a 6-year period commits a
30 Class D crime for which a fine of not less than \$2,000 may be imposed, none of
31 which may be suspended.

32 **3. Exceptions.** This section does not apply to a licensee under chapter 262-A or an
33 agent of that licensee in the scope of employment.'

34 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
35 section number to read consecutively.

SUMMARY

37 This amendment replaces the bill. It provides that it is a Class D crime for a person
38 who is 21 years of age or older to procure, furnish, give, sell or deliver a tobacco product

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to a minor or allow a minor under that person's control or in a place under that person's control to possess or consume a tobacco product. This provision does not apply to a licensee under the Maine Revised Statutes, Title 22, chapter 262-A or an agent of that licensee in the scope of employment. Current law provides that a person is guilty of endangering the welfare of a child if the person knowingly sells, furnishes, gives away or offers to sell, furnish or give away cigarettes to a child under 16 years of age. This amendment instead makes the same conduct illegal with respect to a tobacco product.

FISCAL NOTE REQUIRED

(See attached)



129th MAINE LEGISLATURE

LD 1190

LR 143(02)

An Act To Prohibit the Sale and Distribution of Flavored Tobacco Products

Fiscal Note for Bill as Amended by Committee Amendment *74(S 338)*

Committee: Health and Human Services

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Minor revenue increase - General Fund

Minor revenue increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

Establishes new Class D crimes

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional fine revenue will increase General Fund and dedicated revenue by minor amounts.