

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 1452**

H. P. 1122

House of Representatives, March 22, 1979

Speaker laid before the House and on Motion of Mrs. Post of Owl's Head, referred to the Committee on Taxation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Kane of South Portland.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

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**AN ACT Eliminating the Requirements for Licensing Retail Cigarette Outlets and  
Cigarette Vending Machines.**

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Be it enacted by the People of the State of Maine, as follows:

**Sec. 1. 36 MRSA § 4362**, as amended by PL 1977, c. 696, § 287, is further amended to read:

**§ 4362. Licenses**

Each person engaging in the business of selling cigarettes in this State, including any distributor or dealer, **excepting a dealer who sells at retail or through a vending machine**, shall secure a license from the State Tax Assessor before engaging in such business. A separate application and license shall be required for each wholesale outlet ~~and for each retail outlet when a person shall own or control more than one place of business dealing in cigarettes. Each vending machine shall be considered a retail outlet.~~ Such license shall be issued on forms prescribed by the State Tax Assessor, and shall contain the name and address of the applicant, the address of the place of business and such other information as the State Tax Assessor may require for the proper administration of this chapter. Each application for a wholesale outlet license shall be accompanied by a fee of \$25 ~~and each such application for a retail outlet license~~

~~shall be accompanied by a fee of \$1. Each application for a sub-jobber's license, to be known as a "wholesale dealer's license," shall be accompanied by a fee of \$10. Each license so issued shall be prominently displayed on the premises covered by the license and in the case of vending machines there shall be attached to the same a disc or marker to be furnished by the Tax Assessor showing it to have been licensed.~~ Each unclassified importer shall, before importing, receiving or acquiring cigarettes from without the State, secure a license from the State Tax Assessor. There shall be no charge for a license issued to an unclassified importer. Any person who shall sell, offer for sale or possess with intent to sell any cigarettes, without a license as provided in this section, commits a civil violation for which a forfeiture not to exceed \$25 may be adjudged for the first violation and a forfeiture of not less than \$25 nor more than \$200 shall be adjudged for each subsequent violation. Any unclassified importer who shall import, receive or acquire from without the State cigarettes for use of consumption within the State without a license as provided in this section commits a civil violation for which a forfeiture not to exceed \$25 may be adjudged for the first violation and a forfeiture of not less than \$25 nor more than \$200 shall be adjudged for each subsequent violation.

**Sec. 2.** 36 MRSA § 4363, 3rd ¶, is repealed and the following enacted in its place:

**In the event that the holder of a wholesale dealer's license shall remove his business to another location within the State, the license with respect to the former place of business shall be reissued for the new location without payment of an additional fee. In the event of mutilation, loss or destruction for such wholesale dealer's license, a duplicate copy marked as such be issued by the State Tax Assessor upon application accompanied by a fee of \$1.**

**Sec. 3.** 36 MRSA § 4369 is amended to read:

**§ 4369. Stamps affixed by licensed dealers**

Each licensed dealer shall, within 72 hours after coming into possession of any cigarettes not bearing proper stamps evidencing payment of the tax imposed by this chapter, and before selling such cigarettes, affix or cause to be affixed, in such manner as the State Tax Assessor may specify in regulations issued pursuant to this chapter, to each individual package of cigarettes, stamps of the proper denomination as required by section 4365.

**Sec. 4.** 36 MRSA § 4370, 2nd sentence is amended to read:

Any unstamped cigarettes in the possession of a licensed dealer shall be presumed to have been held by him for more than 72 hours unless proof be shown to the contrary.

**Sec. 5.** 36 MRSA § 4375 is amended to read:

**§ 4375. Records; examinations by State Tax Assessor**

Each distributor and each **licensed** dealer shall keep complete and accurate records of all cigarettes manufactured, produced, purchased and sold. Such records shall be of such kind and in such form as the **State** Tax Assessor may prescribe and shall be safely preserved for 2 years in such manner as to insure permanency and accessibility for inspection by the **State** Tax Assessor and his authorized agents. The **State** Tax Assessor and his authorized agents may examine the books, papers and records of any distributor or **licensed** dealer in this State for the purpose of determining whether the tax imposed by this chapter has been fully paid, and may investigate and examine the stock of cigarettes in or upon any premises where such cigarettes are possessed, stored or sold for the purpose of determining whether this chapter is being obeyed.

#### STATEMENT OF FACT

The purpose of this bill is to eliminate the requirement that retailers obtain cigarette licenses, as licenses are unnecessary and of no value. Cigarettes are taxed at the distribution level. This procedure constitutes an unnecessary burden on retailers and the State. It is estimated that loss of revenue due to enactment of this bill would be approximately \$600 for fiscal year 1979-1980 and \$600 for fiscal year 1980-1981.