

MAINE STATE LEGISLATURE

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L.D. 276
(Filing No. H- 54)

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

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

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

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

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Further amend the Bill in that part designated
"§1580-A." in subsection 2, paragraph C, first line
(page 2, line 6 in L.D.) by striking out the under-
lined word "one" and inserting in its place the un-
derlined figure '10'

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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 underlined word
'tobacco'

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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.
The policy shall include the designation of smoking
and nonsmoking areas within the business facility.
The employer shall post the policy.'

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

1 Further amend the Bill in that part designated
2 "§1580-A." in subsection 3, by adding at the end of
3 the first paragraph a new sentence to read: 'Nothing
4 in this section may be construed to subject an em-
5 ployer to any additional liability, other than lia-
6 bility which may exist by law, for harm to an employ-
7 ee from smoking by others in any business facility
8 covered by this section.'

9 Further amend the Bill in that part designated
10 "§1580-A." by striking out all of subsection 4.

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

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

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

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

28 Further amend the Bill in that part designated
29 "§1580-A" by renumbering the subsections to read con-
30 secutively.

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

1 STATEMENT OF FACT

2 This amendment makes the following changes in the
3 bill:

4 1. Excludes from the Workplace Smoking Act of
5 1985 that portion of a workplace which also serves as
6 a person's home;

7 2. Excludes business facilities with less than
8 10 employees;

9 3. Clarifies the definition of smoking to ensure
10 that it is limited to tobacco smoke;

11 4. Amends the provisions concerning collective
12 bargaining to ensure that this bill neither requires
13 the details of a smoking policy to be bargained nor
14 prohibits it. In either case, the policy must comply
15 with the minimum standards of the Workplace Smoking
16 Act of 1985;

17 5. Revises the language concerning the smoking
18 policy;

19 6. Exempts an employer from any liability, other
20 than liability which may exist by law, for harm to an
21 employee from smoking by others in any business fa-
22 cility covered by the Workplace Smoking Act of 1985;

23 7. Deletes any enforcement provisions and penal-
24 ty provisions;

25 8. Deletes an unnecessary word in the Maine Re-
26 vised Statutes, Title 22, section 1580-A, subsection
27 5;

28 9. Clarifies the language regarding discharge of
29 employees to provide that action against an employee
30 is only forbidden by the Workplace Smoking Act of
31 1985 if the action is taken because of that

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

1 employee's assistance in the supervision or enforce-
2 ment of the Workplace Smoking Act of 1985. Action
3 taken for other reasons is not affected by this
4 Workplace Smoking Act of 1985; and

5 10. Clarifies the mutual agreement provision to
6 ensure that it requires the agreement of all the em-
7 ployees.

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Reported by the Minority from the Committee on Human Resources
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