

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1344

H.P. 966

House of Representatives, April 25, 1989

Reference to the Committee on Human Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative HEESCHEN of Wilton.

Cosponsored by Representative MANNING of Portland, Representative ROLDE of York and Senator BRAUN of Knox.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act to Strengthen Maine's Restaurant Smoking Law.



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

3 **Sec. 1. 22 MRSA §1579-A**, as enacted by PL 1987, c. 191, is
amended to read:

5 **§1579-A. Smoking in restaurants**

7
9 1. **Definitions.** As used in this section, unless the
context otherwise indicates, the following terms have the
following meanings.

11 A. "Restaurant" means any ~~enclosed--indoor--restaurant--or~~
13 ~~ether--enclosed--indoor~~ part of an eating establishment which
~~invites the public to be served~~ is or should be licensed by
15 the Department of Human Services under chapter 562, in which
~~food for consumption on the premises or drink is consumed~~
17 indoors, but does not include any portion of the eating
~~establishment which is located outdoors on a patio, open air~~
19 porch, picnic area or the like.

21 B. "Smoking" means carrying or having in one's possession a
lighted cigarette, cigar, pipe or other object giving off or
23 containing any substance giving off ~~tebaeee~~ smoke.

25 2. **Restaurants.** Smoking in restaurants shall be governed
by the following policies.

27 A. Restaurants shall provide for their patrons a ~~no-smoking~~
29 no-smoking area reasonably calculated to address the needs
of the nonsmoking public. "Reasonably calculated" means
31 that at least 50% of the indoor seating in the restaurant is
within a no-smoking area and the restaurant's air
33 circulation and ventilation system is operated to prevent
smoke from the smoking area of the restaurant from entering
35 the no-smoking area.

37 B. Restaurants shall display prominently, at or near the
entrance, a sign indicating its policy on seating smokers
39 and nonsmokers and shall encourage patrons to make their
seating requests known. ~~A sign need not be displayed if a~~
41 ~~host or hostess seats patrons and indicates verbally at the~~
~~time of seating the restaurant's policy~~ The policy must
43 describe the location of the smoking and no-smoking areas in
the restaurant.

45 C. Nothing in this subsection may prohibit a restaurant
47 from designating more than 50% of its indoor seating or all
of its indoor seating as a no-smoking area.

49
51 3. **Violations.** Failure to post a sign ~~or--announce--a~~
policy, to provide a no-smoking area as required by section 2 or
to establish, ~~post or be responsible for implementation of a~~

1 policy, comply with rules promulgated pursuant to subsection 5 is
2 a civil violation ~~for which a forfeiture punishable by a fine of~~
3 ~~not more than \$100 may be adjudged for each day of the violation.~~

5 4. Licensure requirement. The Department of Human Services
6 shall implement rules, pursuant to section 2496, that make the
7 failure to provide for a no-smoking area under the provisions of
8 subsection 2 a major violation of the eating establishment
9 licensure rules which shall provide that a violation may result
10 in the revocation or suspension of the eating establishment's
11 license or the issuance of a conditional eating establishment
12 license.

13 5. Rulemaking. The Department of Human Services is
14 authorized to promulgate rules under the Maine Administrative
15 Procedure Act, Title 5, chapter 375, designed to aid in the
16 enforcement and implementation of the provisions of sections
17 1578, 1578-A, 1578-B, 1579, 1579-A, 1580, 1621 et. seq. and 1628.

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

23 **2. Violation.** It is unlawful for any person, firm or
24 corporation to knowingly distribute or sell cigarettes by the use
25 of a vending machine in a location other than a location that is
26 generally supervised by an adult during the hours the machine is
27 accessible. Cigarette vending machines are prohibited on the
28 premises of restaurants as defined in section 1579-A.

31 STATEMENT OF FACT

33 This bill makes the no-smoking area of the State's
34 restaurants an area where the dining nonsmoking public will not
35 be exposed to second hand smoke and increases compliance with
36 Maine's restaurant smoking laws by removing ambiguities that
37 currently exist.

39 The existing law has improved conditions for nonsmokers at
40 some of the State's restaurants, but nonsmokers are still exposed
41 either directly or indirectly to second hand smoke because of
42 inadequate or improper air circulation and ventilation systems.
43 More Maine people are enjoying meals in restaurants and it is
44 estimated that 65% of Maine's population are nonsmokers. This
45 bill requires that at least 50% of a restaurant's seating be
46 within a no-smoking area.