

L.D. 1134

(Filing No. S- 252)

# STATE OF MAINE SENATE 115TH LEGISLATURE FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 422, L.D. 1134, Bill, "An Act to Protect Citizens from the Effects of Environmental Tobacco Smoke"

Amend the bill by striking out everything after the enacting 18 clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 22 MRSA c. 262 is enacted to read:

### CHAPTER 262

#### SMOKING

<u>§1541. Definitions</u>

As used in this chapter, unless the context otherwise 30 indicates, the following terms have the following meanings:

 32 <u>1. Designated smoking area.</u> "Designated smoking area" means an enclosed area designated as a place for smoking. A
34 <u>designated area must be designed to minimize smoke escaping from</u> the designated area into a public place.

2. Enclosed area. "Enclosed area" means a space between a
38 floor and a ceiling that is demarcated on all sides by
floor-to-ceiling walls, windows, doors or passageways.
40 Partitions, partial walls or office dividers that do not extend
from the floor to the ceiling are not demarcations of enclosed
42 areas.

44 <u>3. Private office. "Private office" means an enclosed area</u> that constitutes the work area for no more than 2 persons.

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COMMITTEE AMENDMENT "A" to S.P. 422, L.D. 1134

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	4. Public place. "Public place" means any place not open
2	<u>to the sky into which the public is invited or allowed. A private residence is not a public place.</u>
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	5. Restaurant. "Restaurant" means a restaurant as defined
6	in section 1579-A, subsection 1.
8	<u>6. Smoking. "Smoking" includes carrying or having in one's possession a lighted cigarette, cigar, pipe or other object</u>
10	giving off smoke or containing any substance giving off smoke.
12	<u>§1542. Smoking prohibited in public places</u>
14	<u>1. Prohibition. Smoking is prohibited in all enclosed</u> areas of public places. Smoking is also prohibited in all rest
16	rooms made available to the public.
18	2. Limitations. The smoking prohibition in subsection 1 is subject to the following limitations.
20	A. Smoking may be permitted in an enclosed area of a public
22	place during a period of time that the facility containing the enclosed area of the public place is not open to the
24	public.
26	<u>B. Smoking may be permitted in theaters or other enclosed</u> structures used for plays, lectures, recitals or other
28	<u>similar purposes if the smoking is solely by a performer and the smoking is part of the performance.</u>
30	C. Smoking may be permitted in any area when undertaken as
32	<u>part of a religious ceremony or as part of a cultural activity by a defined group such as Native Americans.</u>
34	D. Smoking in restaurants is governed by section 1579-A.
36	E. Smoking in places of employment is governed by section
38	1580-A.
40	F. Smoking in hospitals is governed by section 1580-B.
42	<u>G. Smoking may be permitted in taverns or lounges or facilities serving primarily alcohol.</u>
44	H. Smoking may be permitted in motel or hotel rooms that
46	are rented to members of the public.
48	I. Smoking may be permitted in those portions of public places consisting of private offices when no member of the

COMMITTEE AMENDMENT "A" to S.P. 422, L.D. 1134

<u>public is present, subject to the provisions of section 1580-A.</u>

J. Smoking may be permitted in retail stores operated by the owner in which the total area open to the public does not exceed 1,500 square feet.

<u>K. For civic auditoriums, as defined in Title 28-A, section</u> 2, smoking may be permitted in the hallways and lobby areas as long as a no smoking area is maintained between the main entrance to the building and one or more doors to the auditorium or area where performances or other events occur.

L. Smoking may be permitted in enclosed areas of public places when beano or bingo games are being conducted in accordance with the provisions of Title 17, sections 314 and 314-A.

3. Minimum standards. The smoking restrictions established by this chapter are minimum standards. Municipalities and persons who control facilities in which smoking is restricted may 22 impose more restrictive ordinances or policies including those prohibiting smoking altogether. This chapter does not supersede 24 any other law or ordinance that is more restrictive regarding smoking.

 4. No public activities. Nothing in this chapter prohibits
the location of a designated smoking area within a public area, as long as no sales, services or other commercial or public
activities are conducted in that public area.

## 32 §1543. Posting signs

34 Signs must be posted conspicuously in buildings where smoking is regulated by this chapter. Designated areas must have 36 signs that read "Smoking Permitted" with letters at least one inch high. Places where smoking is prohibited must have signs 38 that read "No Smoking" with letters at least one inch high or the international symbol for no smoking.

### <u>§1544. Retaliation prohibited</u>

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A person may not discharge, refuse to hire, discipline or otherwise retaliate against an employee or applicant who pursues any remedy available to enforce the requirements of this chapter.

# <u>§1545. Penalty</u>

A person who violates any provision of this chapter commits 50 <u>a civil violation for which on the first offense a warning may be</u> <u>given and on subsequent offenses a forfeiture not to exceed \$100</u> 52 <u>may be adjudged.</u> COMMITTEE AMENDMENT "A" to S.P. 422, L.D. 1134

Sec. 2. 22 MRSA §1578, as amended by PL 1987, c. 20, §2, is 2 repealed. 4 Sec. 3. 22 MRSA §1578-A, as enacted by PL 1987, c. 332, is 6 repealed. Sec. 4. 22 MRSA §1580-C, as enacted by PL 1989, c. 743, is 8 repealed. 10 Sec. 5. 22 MRSA §1580-D, as enacted by PL 1989, c. 878, Pt. 12 G,  $\S2$ , is repealed. Sec. 6. 22 MRSA c. 265-A, as enacted by PL 1985, c. 737, Pt. 14 A, §50, is repealed. 16 Sec. 7. 22 MRSA §1672-A, as enacted by PL 1989, c. 314, is 18 repealed. Sec. 8. Effective date. This Act takes effect January 1, 1992. 20 22 FISCAL NOTE 24 This bill prohibits smoking in public places, with certain 26 limitations, beginning July 1, 1992. 28 A significant increase in the number of cases filed in District Court as a result of the violations will require additional General Fund appropriations to the Judicial Department 30 for additional positions to handle the increased work load. The collection of additional fines will also increase General Fund 32 revenue slightly. These amounts can not be estimated at this time.' 34 36 STATEMENT OF FACT 38 This amendment repeals the entire bill and substitutes a 40 simpler, narrower proposal that prohibits smoking in enclosed areas of buildings to which members of the public are invited or permitted and in rest rooms that are available for public use. 42 Among the exceptions made to the prohibition are taverns and 44 lounges, private offices, small owner-operated stores, beano games and civic auditoriums. Restaurants, hospitals and the 46 workplace continue to be governed by their own laws. Portions of existing law that are duplicative are repealed. Enforcement by 48 the Department of Human Services is removed, leaving to the court system the enforcement of the law. Reported by the Majority for the Committee on Human Resources.

Reported by the Majority for the Committee on Human Resources. Reproduced and Distributed Pursuant to SEnate Rule 12. (5/30/91) (Filing No. S-252) Page 4-LR1876(2)