

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1134

S.P. 422

In Senate, March 18, 1991

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MATTHEWS of Kennebec

Cosponsored by Representative PINES of Limestone, Representative HEESCHEN of Wilton
and Representative DUPLESSIS of Old Town.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Protect Citizens from the Effects of Environmental Tobacco
Smoke.

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

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

6 CHAPTER 262

8 SMOKING

10 §1541. Definitions

12 As used in this chapter, unless the context otherwise
indicates, the following terms have the following meanings.

14 1. Business. "Business" means any sole proprietorship,
partnership, joint venture, corporation, firm or other business
entity formed for profit-making purposes. Business includes, but
is not limited to, retail stores and offices where professional
services are delivered.

20 2. Designated area. "Designated area" means an enclosed
area designated as a place for smoking. A designated area must
be designed to prevent smoke from escaping from the designated
area into a public place.

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

32 4. Nonprofit organization. "Nonprofit organization" means
any corporation, association or other entity created for
charitable, philanthropic, educational, civic, political, social
or other similar purposes that uses its proceeds solely for the
promotion of the organization's goals and not for private
financial gain. A public agency is not a nonprofit organization.

38 5. Public place. "Public place" means any place not open
to the sky that the public is invited or permitted to visit
including, but not limited to, banks, educational facilities,
reception areas, retail service establishments, retail stores,
theaters, laundromats and waiting rooms. Except as specified in
section 1542, subsection 2, paragraph H, a private residence is
not a public place.

46 6. Restaurant. "Restaurant" means a restaurant as defined
in section 1579-A, subsection 1.

48 7. Retail tobacco store. "Retail tobacco store" means a
retail business engaged primarily in the sale of tobacco products

2 and accessories and in which the sale of other products is
3 incidental.

4 8. Service line. "Service line" means any line formed in a
5 public place in which one or more persons are waiting for or
6 receiving a service of any kind, regardless of whether the
7 service involves the exchange of money.

8 9. Smoking. "Smoking" means inhaling, exhaling, burning or
9 carrying any lighted cigar, cigarette, weed, plant or other
10 combustible substance.

11 10. Sports establishment. "Sports establishment" means a
12 sports pavilion, gymnasium, health spa, boxing arena, swimming
13 pool, roller or ice rink, bowling alley or other similar place
14 where members of the general public assemble to engage in
15 physical exercise, participate in athletic competition or witness
16 sports events.

17 §1542. Smoking prohibited in public places

18 1. Prohibition. Smoking is prohibited in all enclosed
19 areas of public places, including, but not limited to, the
20 following:

21 A. Service line areas;

22 B. Polling places;

23 C. Waiting rooms;

24 D. Parts of retail stores that are open to the public;

25 E. Public places in businesses and nonprofit organizations;

26 F. Publicly owned buildings; and

27 G. Public places that are places of public accommodation as
28 defined in Title 5, section 4553.

29 2. Limitations. The smoking prohibition in subsection 1 is
30 subject to the following limitations.

31 A. Smoking is not prohibited in retail tobacco stores.

32 B. In aquariums, galleries, libraries and museums, smoking
33 is not prohibited when the facilities are not open to the
34 public.

35 C. In theaters or other enclosed structures used for plays,
36 lectures, recitals or other similar purposes, smoking is not

2 prohibited if the smoking is part of a performance.

4 D. In sports establishments and convention halls, smoking
may be permitted in designated areas.

6 E. Smoking in restaurants is governed by section 1579-A.

8 F. Smoking in places of employment is governed by section
1580-A.

10 G. Smoking is not prohibited or restricted in bars. For
the purposes of this section, a "bar" is a business that
serves alcohol but does not serve food.

14 H. Smoking is not prohibited or restricted in a private
residence unless the private residence is used to provide
child care for remuneration, in which case the private
residence is a public place.

20 I. Smoking is not prohibited or restricted in motel or
hotel rooms that are rented to guests.

22 J. Notwithstanding section 1579-A, smoking is not
prohibited or restricted in restaurants, motel or hotel
conference or meeting rooms, or public or private assembly
or function rooms when those facilities are used for private
functions.

28 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
impose more restrictive ordinances or policies, including those
prohibiting smoking altogether. This chapter does not supersede
any other law or ordinance that is more restrictive regarding
smoking.

36 **§1543. Posting signs**

38 Signs must be posted clearly, sufficiently and conspicuously
in every building or place where smoking is regulated by this
chapter. Designated areas must have signs that read "Smoking"
with letters at least one inch in height. Places where smoking
is prohibited must have signs that read "No Smoking" with letters
at least one inch in height or the international symbol for no
smoking.

46 **§1544. Retaliation prohibited**

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

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§1545. Enforcement; forfeitures

1. Enforcement. Beginning July 1, 1992, the department shall enforce the provisions of this chapter. In addition to conducting regular inspections of regulated places, the department shall require persons responsible for regulated places to conduct and submit self-certification surveys stating that all provisions of this chapter are being followed.

Any person may submit a complaint regarding an alleged violation of this chapter to the department for enforcement or may bring action in a court to enforce this chapter.

2. Forfeitures. A person who violates any provision of this chapter commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged. A person who violates any provision of this chapter for a 2nd time within one year may be adjudged a forfeiture not to exceed \$200. A person who violates any provision of this chapter more than twice within a one-year period may be adjudged a forfeiture not to exceed \$500 for the 3rd violation and each subsequent violation.

Smoking in an area where smoking is prohibited is a violation of this chapter.

Sec. 2. 22 MRSA §1578, as amended by PL 1987, c. 20, §2, is repealed.

Sec. 3. 22 MRSA §1578-A, as enacted by PL 1987, c. 332, is repealed.

Sec. 4. 22 MRSA §1578-B, as enacted by PL 1987, c. 687, is repealed.

Sec. 5. 22 MRSA §1580, as reallocated by PL 1983, c. 816, Pt. A, §15, is repealed.

Sec. 6. 22 MRSA §1580-B, as repealed and replaced by PL 1989, c. 878, Pt. G, §1, is repealed.

Sec. 7. 22 MRSA §1580-C, as enacted by PL 1989, c. 743, is repealed.

Sec. 8. 22 MRSA §1580-D, as enacted by PL 1989, c. 878, Pt. G, §2, is repealed.

Sec. 9. 22 MRSA c. 265-A, as enacted by PL 1985, c. 737, Pt. A, §50, is repealed.

Sec. 10. Effective date. This Act takes effect January 1, 1992.

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STATEMENT OF FACT

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6 Effective January 1, 1992, this bill replaces several
8 specific smoking prohibitions with a general ban on smoking in
 enclosed areas of public places. The bill retains current law
 with regard to smoking in restaurants and in the workplace.

10

 The Department of Human Services is charged with enforcement
 activities.