

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

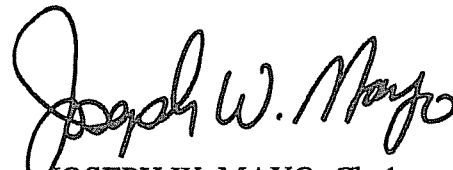
No. 412

H.P. 324

House of Representatives, February 9, 1993

An Act Regarding Smoking in Restaurants.

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


JOSEPH W. MAYO, Clerk

Presented by Representative HEESCHEN of Wilton.
Cosponsored by Representatives: DEXTER of Kingfield, FITZPATRICK of Durham,
PENDEXTER of Scarborough, Senators: BUSTIN of Kennebec, HANDY of Androscoggin.

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

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4 Sec. 1. 22 MRSA §1578-A, sub-§1, ¶B-1 is enacted to read:

6 B-1. "Smoke-free area" means an area free of smoke and free of recirculated air that contains smoke.

8 Sec. 2. 22 MRSA §1578-A, sub-§3, ¶B, as enacted by PL 1987, c. 332, is amended to read:

10 B. For any enclosed indoor restaurant or cafeteria or other enclosed indoor area which that serves food for consumption on the premises of the a publicly owned building, a no smoking smoke-free area reasonably-calculated-to-address-the needs-of-the-nonsmoking-public-shall that comprises at least 70% of the seating area must be made available. In addition, a sign indicating the policy on seating smokers and nonsmokers shall must be prominently displayed at or near the entrance. ~~A sign need not be displayed if a host or hostess seats patrons and indicates verbally at the time of seating the policy of the eating establishment.~~

22 Sec. 3. 22 MRSA §1579-A, sub-§1, ¶A-1 is enacted to read:

24 A-1. "Smoke-free area" means an area free of smoke and free of recirculated air that contains smoke.

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28 Sec. 4. 22 MRSA §1579-A, sub-§§2 and 3, as amended by PL 1989, c. 451, §1, are further amended to read:

30 2. **Restaurants.** Smoking in restaurants shall--be is governed by the following policies.

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34 A. Restaurants shall provide for their patrons a no-smoking smoke-free area reasonably-calculated-to-address-the needs of-the-nonsmoking-public that comprises at least 70% of the seating area. ~~The department shall, by rule, adopted under the Maine Administrative Procedure Act, Title 5, chapter 375, define "reasonably-calculated." The rule, accompanied by a description of the department's experience in enforcing the rule, shall be submitted to the joint standing committee of the Legislature having jurisdiction over human resource matters by January 1, 1991, for review.~~

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

2 C. Nothing in this subsection prohibits a restaurant from
designating more than 50% 70% of its indoor seating area or
4 all of its indoor seating area as a ~~no-smoking~~ smoke-free
area.

6 **3. Violations.** Failure to post a sign ~~or--announce--a~~
~~policy,~~ to provide a ~~no-smoking~~ smoke-free area as required by
8 subsection 2 or to comply with rules promulgated pursuant to
subsection 2 is a civil violation for which a forfeiture of not
10 less than \$100 nor more than \$500 may be adjudged.

12 **Sec. 5. 22 MRSA §1579-A, sub-§4,** as enacted by PL 1989, c.
14 451, §2, is amended to read:

16 **4. Licensure requirement.** The Department of Human Services
shall ~~implement~~ adopt rules, ~~pursuant to section 2496,~~ that make
18 the failure to provide ~~for~~ a ~~no-smoking~~ smoke-free area under the
provisions of subsection 2 a violation of the eating
20 establishment licensure rules. Employees of the department
~~inspecting who inspect~~ restaurants pursuant to ~~their--authority~~
22 ~~under~~ chapter 562 shall determine whether the restaurant is in
compliance with and enforce this section.

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STATEMENT OF FACT

28 This bill strengthens smoking restrictions in restaurants.
Currently, restaurants must provide an area that is "reasonably
30 calculated to address the needs of the nonsmoking public." This
bill replaces that phrase with the requirement that restaurants
32 provide areas comprising at least 70% of their seating areas that
are free of smoke. The bill also removes the current option of
34 conveying the restaurant's smoking policy verbally, requiring
that it be posted in all instances.

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38 The bill applies to both private restaurants and restaurants
or cafeterias that are located in public buildings.

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