

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

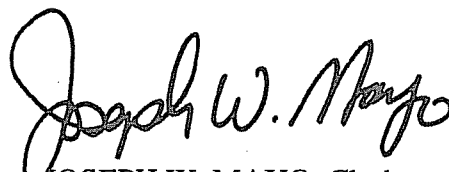
No. 904

H.P. 666

House of Representatives, March 15, 1993

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

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


JOSEPH W. MAYO, Clerk

Presented by Representative SIMONDS of Cape Elizabeth.
Cosponsored by Senator PARADIS of Aroostook and
Representatives: ADAMS of Portland, AULT of Wayne, BRENNAN of Portland, JOSEPH of Waterville, MARSH of West Gardiner, PENDEXTER of Scarborough, PENDLETON of Scarborough, PINETTE of Fort Kent, TREAT of Gardiner, Senators: AMERO of Cumberland, McCORMICK of Kennebec.

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

18 2. 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.

22 3. Private office. "Private office" means an enclosed area
that constitutes the work area for no more than 2 persons.

26 4. Public place. "Public place" means any place not open
to the sky into which the public is invited or allowed. Except
as provided in section 1542, subsection 2, paragraph J, a private
residence is not a public place.

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

34 6. Smoking. "Smoking" includes carrying or having in one's
possession a lighted cigarette, cigar, pipe or other object
giving off smoke or containing any substance giving off smoke.

38 §1542. Smoking prohibited in public places

40 1. Prohibition. Smoking is prohibited in all enclosed
areas of public places and all rest rooms made available to the
public.

42 2. Limitations. The prohibition in subsection 1 is subject
to the following limitations.

2 A. Smoking is not prohibited in an enclosed area of a
4 public place during a period of time that the facility
containing the enclosed area of the public place is not open
to the public.

6 B. Smoking is not prohibited in theaters or other enclosed
8 structures used for plays, lectures, recitals or other
similar purposes if the smoking is solely by a performer and
the smoking is part of the performance.

10 C. Smoking is not prohibited in any area where undertaken
12 as part of a religious ceremony or as part of a cultural
activity by a defined group such as Native Americans.

14 D. Smoking in restaurants is governed by the provisions of
16 section 1579-A.

18 E. Smoking in places of employment is governed by the
20 provisions of section 1580-A.

22 F. Smoking in hospitals is governed by the provisions of
section 1580-B.

24 G. Smoking is not prohibited in taverns or lounges or other
26 facilities serving primarily alcohol.

28 H. Smoking is not prohibited in motel or hotel rooms that
are rented to members of the public.

30 I. Smoking is not prohibited in those portions of public
32 places consisting of private offices when no member of the
public is present, subject to the provisions of section
34 1580-A.

36 J. Smoking is not prohibited in a private residence unless
the private residence is used as a licensed day care or
38 baby-sitting service, in which case that portion of the
private residence used to care for children is a public
40 place for the period of time that children who are being
cared for are present in that portion of the residence.

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

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

6 **§1543. Posting signs**

8 Signs must be posted conspicuously in buildings where
9 smoking is regulated by this chapter. Designated areas must have
10 signs that read "Smoking Permitted" with letters at least one
11 inch in height. Places where smoking is prohibited must have
12 signs that read "No Smoking" with letters at least one inch in
13 height or the international symbol for no smoking.

14 **§1544. Retaliation prohibited**

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

20 **§1545. Penalty**

22 A person who violates any provision of this chapter commits
23 a civil violation for which a forfeiture not to exceed \$100 may
24 be adjudged.

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

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

32 Sec. 4. 22 MRSA §1578-B, sub-§§4 and 5, as enacted by PL 1987,
33 c. 687, are amended to read:

36 4. Employees. School employees are prohibited from tobacco
37 use in school buildings or on school grounds, except that a local
38 school board may establish a designated smoking area or areas in
39 accordance with section 1580-A, subsection 3, ~~and employees may~~
40 ~~reopen collective bargaining negotiations in accordance with~~
41 ~~section 1578-A, subsection 4, for the purpose of bargaining for~~
42 smoking areas. Any school employee smoking area shall must be
43 located away from areas frequented by students.

44 5. Public. Tobacco use by any member of the public, other
45 than an employee or student, in school buildings and on school
46 grounds shall be is governed by section 1578-A chapter 262.

48 Sec. 5. 22 MRSA §1580-C, as enacted by PL 1989, c. 743, is
49 repealed.

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Sec. 6. 22 MRSA §1580-D, as enacted by PL 1989, c. 878, Pt. G, §2, is repealed.

Sec. 7. 22 MRSA c. 265-A, as enacted by PL 1985, c. 737, Pt. A, §50, is repealed.

Sec. 8. 22 MRSA §1672-A, as corrected by RR 1991, c. 1, §28, is repealed.

Sec. 9. Effective date. This Act takes effect January 1, 1994.

STATEMENT OF FACT

This bill prohibits smoking in enclosed areas of buildings into which members of the public are invited or permitted and in rest rooms that are available for public use. This bill repeals those portions of existing law that are rendered superfluous by this bill.