

MAINE STATE LEGISLATURE

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M
R. O. S.

L.D. 413

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DATE: May 8, 1997

(Filing No. S-198)

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HEALTH AND HUMAN SERVICES

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Reported by: Report B

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**STATE OF MAINE
SENATE
118TH LEGISLATURE
FIRST SPECIAL SESSION**

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COMMITTEE AMENDMENT "A " to S.P. 134, L.D. 413, Bill, "An Act to Ban All Smoking within Workplaces, Restaurants and Public Accommodations"

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Amend the bill by striking out the title and substituting the following:

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'An Act to Restrict Smoking in Public Places'

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Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

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Sec. 1. 22 MRSA §1541, sub-§5, as enacted by PL 1993, c. 342, §1 and affected by §9, is amended to read:

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

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Sec. 2. 22 MRSA §1542, sub-§2, ~~¶¶D and G~~, as enacted by PL 1993, c. 342, §1 and affected by §9, are amended to read:

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D. Smoking in restaurants is governed by the provisions of section ~~1579-A~~ 1579-B.

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G. Smoking is ~~not~~ prohibited in the no-smoking areas of taverns or lounges, which must be so designated by the management of the tavern or lounge. No-smoking areas designated by management must be reasonably calculated to meet the needs of the nonsmoking public. The department shall adopt rules to define "reasonably calculated." Rules adopted pursuant to this paragraph are routine technical rules as defined by Title 5, chapter 375, subchapter II-A.

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Sec. 3. 22 MRSA §1579-A, as amended by PL 1989, c. 451, §§1 and 2, is repealed.

Sec. 4. 22 MRSA §1579-B is enacted to read:

§1579-B. Smoking in restaurants

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

A. "Restaurant" means any enclosed indoor restaurant or other enclosed indoor establishment that invites the public to be served food for consumption on the premises.

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

2. Restaurants. Smoking is allowed only in an area of the restaurant that is used primarily for the service of alcoholic beverages and that is a separate room constructed so that smoke does not pass from the separate room to the remainder of the restaurant.

3. Licensure requirement. The department shall implement rules, pursuant to section 2496, that make the failure to comply with subsection 2 a violation of the eating establishment licensure rules. An employee of the department authorized to inspect restaurants under chapter 562 shall determine whether the restaurant is in compliance with this section and shall enforce this section.'

Further amend the bill by inserting at the end before the summary the following:

'FISCAL NOTE

The Department of Human Services will incur some minor additional costs to adopt rules concerning designated smoking areas in taverns and lounges. These costs can be absorbed within the department's existing budgeted resources. The department will also realize some minor savings from no longer having to calculate the number of nonsmoking seats in restaurants as part of the inspection process.

The additional workload and administrative costs associated with the minimal number of new cases filed in the court system

COMMITTEE AMENDMENT "A" to S.P. 134, L.D. 413

2 can be absorbed within the budgeted resources of the Judicial
Department. The collection of additional fines may increase
4 General Fund revenue by minor amounts.'

6 **SUMMARY**

8 This amendment replaces the bill. It prohibits smoking in
10 restaurants, except for those with separate bars in which smoking
is allowed. It requires taverns and lounges to have no-smoking
12 areas similar to the no-smoking areas currently in restaurants.
It also adds a fiscal note to the bill.