

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1691

H.P. 1192

House of Representatives, March 27, 1997

An Act to Significantly Reduce Smoking and Tobacco Use among the Young People of Maine.

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative MITCHELL of Portland.

Cosponsored by Representatives: DEXTER of Kingfield, GAGNON of Waterville, MAYO of Bath, ROWE of Portland, Senators: PARADIS of Aroostook, RAND of Cumberland.

2 §273. Tobacco Prevention and Control Program

4 1. Program established. The Tobacco Prevention and Control
6 Program, referred to in this section as "the program," is
8 established in the bureau. The purposes of the program are to
10 prevent the State's youths from every using tobacco products and
 to assist youths and adults who currently smoke cigarettes and
 use other tobacco products to quit. The program includes the
 following components:

12 A. An ongoing, major media campaign to:

14 (1) Educate the public about the health hazards, costs
16 and other relevant facts surrounding the use of tobacco
 products;

18 (2) Encourage young people not to begin using tobacco
 products;

20 (3) Motivate the users of tobacco products to quit;

22 (4) Reinforce behavior of former users of tobacco
24 products to prevent relapse; and

26 (5) Encourage public acceptance of smoke-free
 environments;

28 B. Grants for funding community-based programs aimed at
30 tobacco prevention and control, including funding of tobacco
32 prevention and control education for those school
34 administrative units that choose to offer such programs to
 primary, middle and high school students and for
 community-based enforcement of state tobacco control laws,
 including sales to minors;

36 C. Community-based programs of smoking prevention and
38 cessation counseling and medication, when appropriate,
40 available for all youths free of charge and means-tested for
 adults; and

42 D. Procedures for monitoring and evaluating which
44 prevention and control programs are working and which need
 to be changed, including programs to:

46 (1) Monitor and maintain the program's effectiveness
 through an evaluation of each component; and

48 (2) Assess the prevalence of the use of tobacco
50 products and knowledge about and attitudes towards such
 use on a statewide and community basis.

2 The bureau shall administer the program with the oversight
3 provided in subsection 2 and may contract for professional
4 services to carry out the program.

5
6 2. Oversight. The Maine Tobacco Prevention and Control
7 Council is established under Title 5, section 12004-I, subsection
8 36-C to oversee the program. The council shall provide oversight
9 and policy guidance to the bureau in carrying out its duties
10 under this section and ensure coordination of the program with
11 relevant nonprofit and community agencies and the Department of
12 Education, the Office of Substance Abuse, the Maine Center for
13 Public Health Practice and other relevant state agencies. The
14 council consists of 7 members, appointed as follows:

15 A. Two public health officials, appointed by the Governor;

16
17 B. Two representatives of nonprofit organizations involved
18 in seeking to reduce the use of tobacco products in the
19 State, with one representative appointed by the President of
20 the Senate and one representative appointed by the Speaker
21 of the House of Representatives;

22
23 C. A person who designs and implements issue-oriented media
24 campaigns, appointed by the Governor; and

25
26 D. Two persons involved in designing and implementing
27 community-based education or cessation programs for the
28 prevention of tobacco use, one to focus on adults, appointed
29 by the President of the Senate, and one to focus on youth,
30 appointed by the Speaker of the House of Representatives.

31
32 Appointments to the council must be made by October 1, 1997.
33 Members serve for 3-year terms and may be reappointed. When the
34 appointment of all members is complete, the Governor or the
35 Governor's designee shall convene the first meeting of the
36 council no later than November 1, 1997. The council shall choose
37 a chair from among its members and establish its procedure for
38 reaching decisions. The bureau shall provide staff assistance to
39 the council. The council shall report annually on the program to
40 the Governor and the Legislature by December 1st, and include any
41 recommendations or proposed legislation to further the purposes
42 of the program.

43
44 The appointing authority shall fill a council member vacancy for
45 the remainder of the vacant term. Each member is entitled to
46 compensation as provided in Title 5, section 12004-I, subsection

2 36-C, following approval of expenses by the Director of the
3 Bureau of Health.

4 3. Funds. Beginning January 1, 1993, the treasurer shall
5 transfer from the fund to the program \$14,000,000 for fiscal year
6 1997-98. Beginning July 1, 1998, the treasurer shall transfer
7 from the fund to the program \$28,000,000 for fiscal year
8 1998-99. For the fiscal years following fiscal year 1998-99, the
9 treasurer shall transfer to the program the amount transferred
10 for the previous fiscal year, adjusted to account for inflation
11 as established by the Consumer Price Index. The bureau may not
12 expend, on behalf of the fund, administrative costs associated
13 with its duties under this section more than one percent of the
14 amount transferred to the program from the fund in each fiscal
15 year.

16 **§274. Fund expenditures for tobacco laws enforcement**

17
18 Beginning January 1, 1998, the treasurer shall transfer from
19 the fund \$500,000 to the State Tax Assessor and the Bureau of
20 State Police, respectively, for fiscal year 1997-98. Beginning
21 July 1, 1998, the treasurer shall transfer from the fund
22 \$1,000,000 to the State Tax Assessor and the Bureau of State
23 Police, respectively, for the 1998-99 fiscal year. The allocated
24 amounts must be used by the Bureau of State Police and the Bureau
25 of Taxation for tax collection and for law enforcement activities
26 aimed at preventing and apprehending any transportation into this
27 State or distribution or sale in this State of untaxed or
28 under-taxed cigarettes.

29
30 For the fiscal years following fiscal year 1998-99, the
31 treasurer shall transfer to the activities described in this
32 section the amounts transferred for the previous fiscal year,
33 adjusted to account for inflation as established by the Consumer
34 Price Index.

35 **§275. Expenditures of remaining revenues contained in the fund**

36
37
38 For fiscal year 1997-98 and for the fiscal years following
39 fiscal year 1997-98, and after making the transfers required
40 under sections 273 and 274, the treasurer shall deposit from the
41 fund into the General Fund the revenues necessary to maintain the
42 level of cigarette tax revenue realized by the General Fund in
43 fiscal year 1996-97. All remaining revenues in the fund must be
44 allocated by the Legislature to fund one or more the following 3
45 initiatives in amounts and for specific programs as determined by
46 the Legislature:

47
48 1. Health care needs. Meeting the health care needs of the
49 people of this State;
50

2 **2. Tax relief.** Providing tax relief for the people of this
State; and

4 **3. Assistance to businesses.** Offering transitional
6 financial assistance to certain businesses of the State that
7 experience a significant and documented loss of sales of tobacco
8 products as a result of this legislation and that do not have a
9 record of violating the State's tobacco control laws, including
10 sales to minors.

12 **Sec. 3. 36 MRSA §4365, first ¶,** as amended by PL 1989, c. 588,
Pt. D, §1, is further amended to read:

14 A tax is imposed on all cigarettes held in this State, by
16 any person, for sale, the tax to be at the rate of 15.5 mills for
each cigarette beginning October 1, 1989; 16.5 mills for each
18 cigarette beginning January 1, 1991; and 18.5 mills for each
cigarette beginning July 1, 1991; and 68.5 mills for each
20 cigarette beginning January 1, 1998. Payment of the tax shall
22 must be evidenced by the affixing of stamps to the packages
containing the cigarettes. If a federal program similar to that
provided in Title 22, section 3185, becomes effective, this tax
24 is reduced by one mill for each cigarette. The Governor shall
determine by proclamation when the federal program has become
26 effective. Nothing contained in this chapter shall may be
construed to impose a tax on any transaction, the taxation of
28 which by this State is prohibited by the Constitution of the
United States.

30 **Sec. 4. 36 MRSA §4365-D** is enacted to read:

32 **§4365-D. Rate of taxation after December 31, 1997**

34 Cigarettes stamped at the rate of 18.5 mills per cigarette
36 and held for resale after December 31, 1997 are subject to tax at
the rate of 68.5 mills per cigarette.

38 A person holding cigarettes for resale is liable for the
40 difference between the tax rate of 68.5 mills and the tax rate of
18.5 mills per cigarette in effect before January 1, 1998.
42 Stamps indicating payment of the tax imposed by this section must
be affixed to all packages of cigarettes held for resale as of
44 January 1, 1998, except that cigarettes held in vending machines
as of that date do not require that stamp.

46 Notwithstanding any other provision of this chapter, it is
48 presumed that all cigarette vending machines are filled to
capacity on January 1, 1998 and the tax imposed by this section
50 must be reported on that basis. A credit against this inventory

2 tax must be allowed for cigarettes stamped at the 68.5 mill rate
placed in vending machines before January 1, 1998.

4 Payment of the tax imposed by this section must be made to
the State Tax Assessor before February 15, 1998, must be
6 accompanied by forms prescribed by the State Tax Assessor and
must be credited to the Tobacco Tax Health Protection Fund.

8
10 **Sec. 5. Allocation.** The following funds are allocated from the
Tobacco Tax Health Protection Fund to carry out the purposes of
this Act.

12

	1997-98	1998-99
14 HUMAN SERVICES, DEPARTMENT OF		
16 Bureau of Health		
18		
20	(2,000)	(3,000)
20	\$110,000	\$150,000
22	13,890,000	27,850,000
24	<hr/>	<hr/>
	TOTAL 14,000,000	28,000,000

24 Provides funds for the
26 Tobacco Prevention and
28 Control Program, including
community-based enforcement
of smoking laws.

30 **TAXATION, BUREAU OF**

32 **State Tax Assessor**

34

36	All Other	500,000	1,000,000
38	Provides funds for tax		
40	collection and law		
42	enforcement activities		
	related to sales of unstamped		
	and under-stamped cigarettes.		

42 **PUBLIC SAFETY, DEPARTMENT OF**

44 **Bureau of State Police**

46

48	All Other	500,000	1,000,000
50	Provides for funds for law		
	enforcement activities		

2 related to sales of unstamped
and under-stamped cigarettes.

4 **GENERAL FUND** 4,856,000 9,712,000

6 Provides reimbursement to
8 General Fund of revenues
10 necessary to maintain the
1996-97 level of cigarette
tax revenues.

12 **REMAINING REVENUES**

14 **Sales tax revenues** 2,962,500 5,925,000

16 **Excise tax revenues** 29,519,000 59,038,000

18 Provides revenues for the
20 Legislature to fund one or
more of the following 3
22 initiatives, in amounts and
for specific programs as
24 determined appropriate by the
Legislature: 1. Meeting the
26 health care needs of the
people of this State; 2.
28 Providing tax relief for the
people of this State; 3.
30 Offering transitional
financial assistance to
32 certain state businesses that
experience a significant and
34 documented loss of sales of
tobacco products as a result
36 of this legislation and that
have no record of violating
38 the State's tobacco control
laws, including sales to
40 minors.

42 **TOTAL ALLOCATIONS** \$52,337,500 \$104,675,000

44 **SUMMARY**

46 This bill establishes a self-funded program to reduce
48 dramatically the use of tobacco products by young people in this
State, and to fund other health care, tax relief and business
50 transition programs the Legislature considers appropriate.

2 The bill establishes an oversight board to provide policy
guidance in efforts to reduce the use of tobacco products in this
State.

4
6 The bill creates the Tobacco Tax Health Protection Fund.
Money for this fund is raised by an increase of 50.0 mills per
cigarette in the cigarette tax, thus increasing the cost of a
8 package of cigarettes by \$1. Money from the fund is used for the
following purposes:

10
12 1. To fund the Tobacco Prevention and Control Program in
the Bureau of Health. A citizen board, the Maine Tobacco Control
14 Council, oversees the program, which is aimed at preventing and
controlling the use of tobacco products by youth of the State,
16 helping youth and adults quit using tobacco products and
protecting the public from exposure to environmental tobacco
18 smoke. The program components include: an ongoing major media
campaign; grants for funding community-based programs aimed at
20 tobacco prevention, including school administrative units that
choose to offer such a program, and community-based enforcement
22 of smoking laws; community-based programs of smoking prevention
and cessation counseling and medication, when appropriate,
24 available to all youth free of charge and means-tested for
adults; and monitoring and evaluation of the prevention and
26 control programs to determine which is working and which needs to
be changed;

28 2. To fund state costs associated with enforcement related
to sales of unstamped and under-stamped cigarettes, through the
30 Bureau of Taxation and the State Police;

32 3. To provide a reimbursement to the General Fund to
replace the loss of current cigarette tax revenues, caused by the
34 raising of the excise tax on cigarettes and the resultant decline
in the number of packs of cigarettes currently sold and taxed in
36 this State; and

38 4. Three other potential state programs as considered
appropriate by the Legislature, involving: health care for the
40 people of this State; tax relief for the people of this State;
and a transitional financial assistance program to certain
42 businesses of the State that experience a significant and
documented loss of sales of tobacco products as a result of this
44 legislation and that have no record of violating the State's
tobacco control laws, including sales to minors.

46
48 The bill also allocates the money from the Tobacco Tax
Health Protection Fund to the programs described in this bill.