

# MAINE STATE LEGISLATURE

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DATE: 5-27-97

(Filing No. H-712)

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
118TH LEGISLATURE  
FIRST SPECIAL SESSION

HOUSE AMENDMENT "B" to H.P. 1338, L.D. 1887, Bill, "An Act Regarding Health and the Prevention of Smoking"

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

**'An Act to Establish the Maine Healthy Kids Corporation'**

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

**'Sec. 1. 24-A MRSA c. 83 is enacted to read:**

**CHAPTER 83**

**MAINE HEALTHY KIDS CORPORATION**

**§6651. Maine Healthy Kids Corporation**

1. Establishment. The Maine Healthy Kids Corporation, a nonprofit corporation, is established. The Maine Healthy Kids Corporation, organized pursuant to Title 13-B, has all powers necessary to carry out the purposes of this section, including, but not limited to, the power to receive and accept grants, loans or advances of funds from any public or private agency and to receive and accept from any source contributions of money, property, labor or any other thing of value, to be held, used and applied for the purposes of this section.

2. Duties. The Maine Healthy Kids Corporation shall:

**HOUSE AMENDMENT**

A. of S.

2 A. Phase in a program to facilitate the provision of  
4 preventive health care services and comprehensive health  
6 insurance coverage first to children under 19 years of age  
8 when the family income is below 150% of the nonfarm income  
10 official poverty line for a family of the size involved, as  
12 defined by the federal Office of Management and Budget and  
14 revised annually in accordance with the United States  
16 Omnibus Budget Reconciliation Act of 1981, Section 673,  
18 Subsection 2 then, if funding permits, to other children  
20 under 19 years of age;

22 B. Determine the best means to provide for payment for  
24 preventive health care services or premiums for  
26 comprehensive insurance coverage and for the actual or  
28 estimated administrative expenses incurred during the period  
30 for which family or employer payments are made. The program  
32 must include a sliding scale of premiums and copayments  
34 based on the ability of a parent or guardian to pay;

36 C. Establish the administrative and accounting procedures  
38 for the operation of the corporation;

40 D. Establish, with consultation from appropriate  
42 professional organizations, standards for preventive health  
44 services and providers and comprehensive insurance benefits  
46 appropriate to children;

48 E. Establish eligibility criteria that children must meet  
50 in order to participate in the program;

F. Establish procedures under which applicants to and  
participants in the program may have grievances reviewed by  
an impartial body and reported to the board of directors of  
the corporation;

G. Establish participation criteria and, if appropriate,  
contract with an authorized insurer, health maintenance  
organization or insurance administrator to provide  
administrative services to the corporation;

H. Contract with authorized insurers or any provider of  
health care services, meeting standards established by the  
corporation, for the provision of comprehensive insurance  
coverage and preventive health care services to participants;

I. Develop and implement a plan to publicize the Maine  
Healthy Kids Corporation, the eligibility requirements of  
the program and the procedures for enrollment in the program  
and maintain public awareness of the corporation and program;

2 J. Secure staff necessary to properly administer the  
3 corporation. The board of directors shall determine the  
4 number of staff members necessary to administer the  
5 corporation;

6 K. Apply, in cooperation with the Department of Human  
7 Services, for any Medicaid waivers necessary to implement  
8 this section; and

10 L. Provide a report on an annual basis to the Governor,  
11 superintendent, Commissioner of Education, President of the  
12 Senate, Speaker of the House of Representatives and minority  
13 leaders of the Senate and the House. The first report must  
14 be submitted no later than December 1, 1997.

16 **3. Secondary coverage.** Coverage under the corporation's  
17 program is secondary to any other available private coverage held  
18 by the participant child or family member. The corporation may  
19 establish procedures for coordinating benefits under the program  
20 developed pursuant to this section with benefits under other  
21 public and private coverages.

22 **4. Board of directors.** The board of directors of the  
23 corporation is established and consists of 10 members, to be  
24 appointed as follows:

26 A. One member appointed by the Commissioner of Education  
27 from among 3 persons nominated by an association  
28 representing school administrators;

30 B. One member appointed by the Commissioner of Education  
31 from among 3 persons nominated by an association  
32 representing school boards;

34 C. One member appointed by the Governor from among 3  
35 members nominated by an association representing  
36 pediatricians;

38 D. One member appointed by the superintendent from among 3  
39 members nominated by an association representing hospitals;

42 E. Two members appointed by the superintendent who are  
43 representatives of health care insurers or health  
44 maintenance organizations;

46 F. One member appointed by the Commissioner of Education  
47 from the Maine School Health Education Committee;

48 G. One member appointed by the Governor from among the 3  
50 nominees of an association representing family physicians;

2 H. One member appointed by the Governor who represents the  
4 major statewide agency representing community health  
administrators; and

6 I. The Director of the Bureau of Health or the director's  
8 designee.

10 Members serve a term of 3 years, except that, of those members  
appointed in the organizational year, 3 serve a term of 2 years,  
12 3 serve a term of 3 years and 3 serve a term of 4 years.

14 A member may be removed by the official who appointed that  
member. The board shall appoint an executive director who is  
16 responsible for other staff authorized by the board. The  
superintendent or the superintendent's designee shall serve as  
18 chair of the board.

20 Board members are entitled to receive, from funds of the  
corporation, reimbursement for per diem and travel expenses.

22 There is no liability on the part of and no cause of action may  
24 arise against any member of the board of directors or its  
employees or agents for any action they take in the performance  
26 of their powers and duties under this section.

28 5. Licensing not required. The following provisions govern  
the operation of the corporation.

30 A. The corporation is not an insurer. The officers,  
32 members of the board of directors and employees of the  
corporation may not be deemed to be agents of an insurer.  
34 Neither the corporation nor any officer, member of the board  
of directors or employee of the corporation is subject to  
36 the licensing requirements of the insurance laws or the  
rules of the bureau.

38 B. The board of directors has complete fiscal control over  
40 the corporation and is responsible for all corporate  
operations.

42 C. The bureau shall supervise any liquidation or  
44 dissolution of the corporation and has, with respect to any  
liquidation or dissolution, all power granted to it pursuant  
46 to the insurance laws.

48 6. Access to records; confidentiality. Notwithstanding any  
other provision of law, the Maine Healthy Kids Corporation may  
50 have access to the medical records of a child upon receipt of  
permission from a parent or guardian of the child. These medical

records may be maintained by state and local agencies. Any identifying information, including medical records and family financial information, obtained by the corporation pursuant to this subsection is confidential. Neither the corporation nor the staff or agents of the corporation may release, without the written consent of the participant or the parent or guardian of the participant, to any state or federal agency, to any private business or person or to any other entity, any confidential information received pursuant to this subsection.

Sec. 2. 36 MRSA §4365, first ¶, as amended by PL 1989, c. 588, Pt. D, §1, is further amended to read:

A tax is imposed on all cigarettes held in this State by 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 cigarette beginning January 1, 1991; and 18.5 mills for each cigarette beginning July 1, 1991. Beginning November 1, 1997, the tax imposed under this section is 20 mills for each cigarette. Payment of the tax shall 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 is reduced by one mill for each cigarette. The Governor shall determine by proclamation when the federal program has become effective. Nothing contained in this chapter shall may be construed to impose a tax on any transaction, the taxation of which by this State is prohibited by the Constitution of the United States.

Sec. 3. 36 MRSA §4365-D is enacted to read:

§4365-D. Rate of tax beginning November 1, 1997

Beginning November 1, 1997, the following provisions apply to cigarettes held for resale on that date.

1. Stamped rate. Cigarettes stamped at the rate of 18.5 mills per cigarette and held for resale after October 31, 1997 are subject to tax at the rate of 20 mills per cigarette.

2. Liability. A person possessing cigarettes for resale is liable for the difference between the tax rate of 20 mills per cigarette and the tax rate of 18.5 mills per cigarette in effect before November 1, 1997. Stamps indicating payment of the tax imposed by this section must be affixed to all packages of cigarettes held for resale as of November 1, 1997, except that cigarettes held in vending machines as of that date do not require that stamp.

A. 0. 8.

2 3. Vending machines. Notwithstanding any other provision  
of this chapter, it is presumed that all cigarette vending  
4 machines are filled to capacity on November 1, 1997 and the tax  
imposed by this section must be reported on that basis. A credit  
6 against this inventory tax must be allowed for cigarettes stamped  
at the 20-mill rate placed in vending machines before November 1,  
1997.

8  
10 4. Payment. Payment of the tax imposed by this section  
must be made to the State Tax Assessor by February 1, 1998,  
12 accompanied by forms prescribed by the assessor.

14 **Sec. 4. Appropriation.** The following funds are appropriated  
from the General Fund to carry out the purposes of this Act.

16 1997-98

18 **HUMAN SERVICES, DEPARTMENT OF**

20 **Bureau of Medical Services**

22 All Other \$50,000

24 Provides funds to support a portion of the  
26 estimated cost of applying for a Medicaid  
waiver.

28 **Sec. 5. Allocation.** The following funds are allocated from the  
Federal Expenditure Fund to carry out the purposes of this Act.

30 1997-98

32 **HUMAN SERVICES, DEPARTMENT OF**

34 **Bureau of Medical Services**

36 All Other \$50,000

38 Provides funds to support a portion of the  
40 estimated cost of applying for a Medicaid  
42 waiver.'

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

46

48 **FISCAL NOTE**

	1997-98	1998-99
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# HOUSE AMENDMENT

2 APPROPRIATIONS/ALLOCATIONS

4 General Fund \$50,000

6 REVENUES

8	General Fund	\$1,782,859	\$2,964,639
	Other Funds	52,219	3,690

10 This bill generates additional revenue related to an  
12 increase in the cigarette tax by 1.5 mills per cigarette or 3  
14 cents per package of cigarettes. Increasing the cigarette tax  
16 effective November 1, 1997 will increase General Fund revenue by  
\$1,741,569 in fiscal year 1997-98 and \$2,895,980 in fiscal year  
1998-99.

18 The increase in price affecting the sales tax will increase  
20 General Fund revenue by \$41,290 in fiscal year 1997-98 and  
\$68,659 in fiscal year 1998-99. The corresponding increase in  
22 dedicated revenue to the Local Government Fund for  
state-municipal revenue sharing will be \$2,219 and \$3,690,  
respectively.

24 The cost of establishing the Maine Healthy Kids Corporation  
26 can not be estimated at this time and will depend on the cost and  
28 timing of the benefit package provided, the availability of other  
funding sources and on the associated administrative costs. If  
30 the corporation is able to provide benefits at a cost comparable  
to Medicaid, \$10,000,000 to \$11,000,000 per year will be  
32 required. This estimate does not include administrative costs  
and other one-time costs that will be required to establish and  
maintain the corporation.

34 The Department of Human Services will also incur additional  
36 costs to prepare the required waiver request in conjunction with  
the Maine Healthy Kids Corporation. The actual increase in  
38 administrative costs will depend on the level of technical and  
actuarial assistance required. The department estimates that an  
40 additional \$100,000 will be needed. This bill provides that  
level of funding through a \$50,000 General Fund appropriation and  
42 a \$50,000 Federal Expenditure Fund allocation in fiscal year  
1997-98.'

46 SUMMARY

48 This amendment replaces the bill. The amendment raises  
cigarette taxes 3¢ per pack and establishes the Maine Healthy  
50 Kids Corporation, a nonprofit corporation, to develop a plan to

**HOUSE AMENDMENT**



10.8.

HOUSE AMENDMENT "B" to H.P. 1338, L.D. 1887

2 facilitate the provision of preventive health care services and  
3 comprehensive health insurance coverage to children under 19  
4 years of age using the revenue generated from the increase in the  
5 cigarette tax. This plan must include a sliding scale of  
6 premiums and copayments based on the ability of a parent or  
7 guardian to pay. The corporation must issue its first report no  
8 later than December 1, 1997.

10  
12  
14  
16

SPONSORED BY: John Winn  
(Representative WINN)  
TOWN: Glenburn

**HOUSE AMENDMENT**