

MAINE STATE LEGISLATURE

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H.
R. of S.

L.D. 1898

DATE: 6-1-97

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

HOUSE AMENDMENT "B" to H.P. 1352, L.D. 1898, Bill, "An Act to Discourage Smoking by Maine's Youth"

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:

A. Phase in a program to facilitate the provision of preventive health care services and comprehensive health insurance coverage first to children under 19 years of age when the family income is below 150% of the nonfarm income

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2 official poverty line for a family of the size involved, as
3 defined by the federal Office of Management and Budget and
4 revised annually in accordance with the United States
5 Omnibus Budget Reconciliation Act of 1981, Section 673,
6 Subsection 2 then, if funding permits, to other children
7 under 19 years of age;

8 B. Determine the best means to provide for payment for
9 preventive health care services or premiums for
10 comprehensive insurance coverage and for the actual or
11 estimated administrative expenses incurred during the period
12 for which family or employer payments are made. The program
13 must include a sliding scale of premiums and copayments
14 based on the ability of a parent or guardian to pay;

15 C. Establish the administrative and accounting procedures
16 for the operation of the corporation;

17 D. Establish, with consultation from appropriate
18 professional organizations, standards for preventive health
19 services and providers and comprehensive insurance benefits
20 appropriate to children;

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

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

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

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

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

39 J. Secure staff necessary to properly administer the
40 corporation. The board of directors shall determine the
41 number of staff members necessary to administer the
42 corporation;

2 K. Apply, in cooperation with the Department of Human
3 Services, for any Medicaid waivers necessary to implement
4 this section; and

6 L. Provide a report on an annual basis to the Governor,
7 superintendent, Commissioner of Human Services, President of
8 the Senate, Speaker of the House of Representatives and
9 minority leaders of the Senate and the House. The first
10 report must be submitted no later than December 1, 1997.

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

18 4. Board of directors. The board of directors of the
19 corporation is established and consists of 11 members, to be
20 appointed as follows:

22 A. Commissioner of Human Services or the commissioner's
23 designee;

26 B. The superintendent or the superintendent's designee;

28 C. One member appointed by the Governor from among 3
29 members nominated by an association representing
30 pediatricians;

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

34 E. Two members appointed by the superintendent who are
35 representatives of health care insurers or health
36 maintenance organizations;

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

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

44 H. One member appointed by the Governor who represents the
45 major statewide agency representing community health
46 administrators;

48 I. The Director of the Bureau of Health or the director's
49 designee; and
50

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2 J. One member of the public appointed by the Governor.

4 Members serve a term of 3 years, except that, of those members
6 appointed in the organizational year, 3 serve a term of 2 years,
8 4 serve a term of 3 years and 4 serve a term of 4 years.

10 A member may be removed by the official who appointed that
12 member. The board shall appoint an executive director who is
14 responsible for other staff authorized by the board. The
16 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
22 corporation, reimbursement for per diem and travel expenses.

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

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

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

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

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

6. Access to records; confidentiality. Notwithstanding any
other provision of law, the Maine Healthy Kids Corporation may
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

2 written consent of the participant or the parent or guardian of
3 the participant, to any state or federal agency, to any private
4 business or person or to any other entity, any confidential
5 information received pursuant to this subsection.

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

8
9 A tax is imposed on all cigarettes held in this State by any
10 person for sale, the tax to be at the rate of 15.5 mills for each
11 cigarette beginning October 1, 1989; 16.5 mills for each
12 cigarette beginning January 1, 1991; and 18.5 mills for each
13 cigarette beginning July 1, 1991. Beginning November 1, 1997,
14 the tax imposed under this section is 23.5 mills for each
15 cigarette. Payment of the tax shall must be evidenced by the
16 affixing of stamps to the packages containing the cigarettes. If
17 a federal program similar to that provided in Title 22, section
18 3185, becomes effective, this tax is reduced by one mill for each
19 cigarette. The Governor shall determine by proclamation when the
20 federal program has become effective. Nothing contained in this
21 chapter shall may be construed to impose a tax on any
22 transaction, the taxation of which by this State is prohibited by
23 the Constitution of the United States.

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

25 **§4365-D. Rate of tax beginning November 1, 1997**

26
27 Beginning November 1, 1997, the following provisions apply
28 to cigarettes held for resale on that date.

29
30 **1. Stamped rate.** Cigarettes stamped at the rate of 18.5
31 mills per cigarette and held for resale after October 31, 1997
32 are subject to tax at the rate of 23.5 mills per cigarette.

33
34 **2. Liability.** A person possessing cigarettes for resale is
35 liable for the difference between the tax rate of 23.5 mills per
36 cigarette and the tax rate of 18.5 mills per cigarette in effect
37 before November 1, 1997. Stamps indicating payment of the tax
38 imposed by this section must be affixed to all packages of
39 cigarettes held for resale as of November 1, 1997, except that
40 cigarettes held in vending machines as of that date do not
41 require that stamp.

42
43 **3. Vending machines.** Notwithstanding any other provision
44 of this chapter, it is presumed that all cigarette vending
45 machines are filled to capacity on November 1, 1997 and the tax
46 imposed by this section must be reported on that basis. A credit
47 against this inventory tax must be allowed for cigarettes stamped
48 on or before that date.

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at the 23.5-mill rate placed in vending machines before November 1, 1997.

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

Sec. 2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1997-98	1998-99
HUMAN SERVICES, DEPARTMENT OF		
Bureau of Medical Services		
All Other	\$50,000	
Provides funds to support a portion of the estimated cost of applying for a Medicaid waiver.		
Bureau of Health		
All Other	3,587,069	\$6,104,311
Provides funds for smoking prevention advertising campaign.		
Bureau of Health		
All Other	551,857	939,125
Provides funds for smoking cessation programs.		
DEPARTMENT OF HUMAN SERVICES		
TOTAL	<u>4,188,926</u>	<u>7,043,436</u>
MAINE HEALTHY KIDS CORPORATION		
Maine Healthy Kids Corporation		

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2	All Other	1,379,642	2,347,811
4	Provides funds to support a		
6	portion of the estimated cost		
	for providing health		
	insurance to children.		
8	MAINE HEALTHY KIDS CORPORATION		
10	TOTAL	<u>1,379,642</u>	<u>2,347,811</u>
12	TOTAL APPROPRIATIONS	<u>\$5,568,568</u>	<u>\$9,391,247</u>

14 **Sec. 3. Allocation.** The following funds are allocated from the
 16 Federal Expenditure Fund to carry out the purposes of this Act.

18 **1997-98**

20 **HUMAN SERVICES, DEPARTMENT OF**
 22 **Bureau of Medical Services**

24	All Other	\$50,000	
26	Provides funds to support a		
28	portion of the estimated cost		
	of applying for a Medicaid		
	waiver.'		

30 **FISCAL NOTE**

32		1997-98	1998-99
34	APPROPRIATIONS/ALLOCATIONS		
36	General Fund	\$5,568,568	\$9,391,247
38	Other Funds	50,000	
40	REVENUES		
42	General Fund	\$5,632,713	\$9,585,493
44	Other Funds	56,134	10,439

46 Increasing the cigarette tax effective November 1, 1997 will
 48 increase General Fund revenue by \$5,518,568 in fiscal year
 1997-98 and \$9,391,247 in fiscal year 1998-99.

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2 The increase in price affecting the sales tax will increase
General Fund revenue by \$114,145 in fiscal year 1997-98 and
4 \$194,246 in fiscal year 1998-99. The corresponding increase in
dedicated revenue to the Local Government Fund for
6 state-municipal revenue sharing will be \$6,134 and \$10,439,
respectively.

8 The cost of establishing the Maine Healthy Kids Corporation
can not be estimated at this time and will depend on the cost and
10 timing of the benefit package provided, the availability of other
funding sources and on the associated administrative costs. If
12 the corporation is able to provide benefits at a cost comparable
to Medicaid, \$10,000,000 to \$11,000,000 per year will be
14 required. This estimate does not include administrative costs
and other one-time costs that will be required to establish and
16 maintain the corporation. This amendment appropriates \$1,379,642
and \$2,347,811 in fiscal years 1997-98 and 1998-99, respectively
18 to support a portion of the projected costs.

20 The Department of Human Services will also incur additional
costs to prepare the required waiver request in conjunction with
22 the Maine Healthy Kids Corporation. The actual increase in
administrative costs will depend on the level of technical and
24 actuarial assistance required. The department estimates that an
additional \$100,000 will be needed. This bill provides that
26 level of funding through a \$50,000 General Fund appropriation and
a \$50,000 Federal Expenditure Fund allocation in fiscal year
28 1997-98.

30 This bill as amended provides General Fund appropriations of
\$3,587,069 and \$6,104,311 in fiscal years 1997-98 and 1998-99,
32 respectively for a smoking prevention advertising campaign. It
also provides General Fund appropriations of \$551,857 and
34 \$939,125 in fiscal years 1997-98 and 1998-99, respectively for a
smoking cessation program.

38 SUMMARY

40 This amendment replaces the bill. The amendment raises
cigarette taxes 10¢ per pack and establishes the Maine Healthy
42 Kids Corporation, a nonprofit corporation, to develop a plan to
facilitate the provision of preventive health care services and
44 comprehensive health insurance coverage to children under 19
years of age using a portion of the revenue generated from the
46 increase in the cigarette tax. This plan must include a sliding
scale of premiums and copayments based on the ability of a parent
48 or guardian to pay. The corporation must issue its first report
no later than December 1, 1997. The revenue generated from the
50 increase in cigarette taxes is used in the following manner: 65%

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for an advertising campaign to aid antismoking efforts; 25% for health care for children; and 10% for smoking cessation programs.

SPONSORED BY: Julie Winn
(Representative WINN)

TOWN: Glenburn

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