

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST SPECIAL SESSION-1997

Legislative Document

No. 1898

H.P. 1352

House of Representatives, June 1, 1997

An Act to Discourage Smoking by Maine's Youth.

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 CAMERON of Rumford. (GOVERNOR'S BILL)

2 Be it enacted by the People of the State of Maine as follows:

4 Sec. 1. 22 MRSA c. 102 is enacted to read:

6 CHAPTER 102

8 TOBACCO TAX AND HEALTH PROTECTION

10 §271. Definitions

12 As used in this chapter, unless the context otherwise
indicates, the following terms have the following meanings.

14 1. Bureau. "Bureau" means the Bureau of Health.

16 2. Council. "Council" means the Maine Tobacco Prevention
and Control Council.

18 3. Program. "Program" means the Tobacco Prevention and
20 Control Program.

22 4. Tobacco products. "Tobacco products" means any form of
24 tobacco and any material or device used in the smoking, chewing
or other form of tobacco consumption, including cigarette papers
26 and pipes.

28 §272. Tobacco Prevention and Control Program

30 1. Program established. The Tobacco Prevention and Control
Program is established in the bureau. The purposes of the
32 program are to prevent the State's youths from ever using tobacco
products and to assist youths and adults who currently smoke
34 cigarettes and use other tobacco products to discontinue
smoking. The program includes the following components:

36 A. An ongoing, major media campaign to:

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

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

46 (3) Motivate the users of tobacco products to
discontinue smoking;

48 (4) Reinforce behavior of former users of tobacco
50 products to prevent relapse; and

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

4 B. Grants for funding community-based programs aimed at
5 tobacco prevention and control, including funding of tobacco
6 prevention and control education for those school
7 administrative units that choose to offer such programs to
8 primary, middle and high school students and for
9 community-based enforcement of state tobacco control laws,
10 including sales to minors;

11 C. Community-based programs of smoking prevention and
12 cessation counseling and medication, when appropriate,
13 available for all youths free of charge and means-tested for
14 adults;

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

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

20 (2) Assess the prevalence of the use of tobacco
21 products and knowledge about and attitudes towards such
22 use on a statewide and community basis; and

23 E. In conjunction with law enforcement and other state and
24 federal agencies, increased law enforcement efforts to
25 increase compliance with laws regarding the transportation,
26 distribution and sale of cigarettes and tobacco products.

27 The bureau shall administer the program with the review and
28 advice provided in subsection 2 and may contract for
29 professional services to carry out the program.

30 2. Tobacco Prevention and Control Council. The Tobacco
31 Prevention and Control Council is established under Title 5,
32 section 12004-I, subsection 36-C to review the program. The
33 council shall provide advice to the bureau in carrying out its
34 duties under this section and ensure coordination of the program
35 with relevant nonprofit and community agencies and the Department
36 of Education, the Department of Mental Health, Mental Retardation
37 and Substance Abuse Services, Office of Substance Abuse, the
38 Maine Center for Public Health Practice and other relevant state
39 agencies. The council consists of 7 members, appointed as
40 follows:

41 A. Two public health officials, appointed by the Governor;
42 B. Two public health officials, appointed by the Governor;
43 C. Two public health officials, appointed by the Governor;
44 D. Two public health officials, appointed by the Governor;
45 E. Two public health officials, appointed by the Governor;
46 F. Two public health officials, appointed by the Governor;
47 G. Two public health officials, appointed by the Governor;
48 H. Two public health officials, appointed by the Governor;
49 I. Two public health officials, appointed by the Governor;
50 J. Two public health officials, appointed by the Governor;

2 B. Two representatives of nonprofit organizations involved
4 in seeking to reduce the use of tobacco products in the
6 State, with one representative appointed by the President of
8 the Senate and one representative appointed by the Speaker
10 of the House of Representatives;

12 C. A person who designs and implements issue-oriented,
14 public health media campaigns, appointed by the Governor; and

16 D. Two persons involved in designing and implementing
18 community-based education or cessation programs for the
20 prevention of tobacco use, one to focus on adults, appointed
22 by the President of the Senate, and one to focus on youth,
24 appointed by the Speaker of the House of Representatives.

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

48 The appointing authority shall fill a vacancy on the council for
the remainder of the vacant term. Each member who is not a
salaried employee is entitled to compensation as provided in
Title 5, section 12004-I, subsection 36-C, following approval of
expenses by the Director of the Bureau of Health.

Sec. 2. 22 MRSA §1546 is enacted to read:

§1546. Healthy Families Fund

1. **Healthy Families Fund established.** The Healthy Families Fund, hereafter referred to in this section as "the fund," is established as part of a program to reduce the use of tobacco products by youths and adults of the State. Expenditures from the fund must be made as provided in this section. The fund is a dedicated fund and may not lapse.

2. **Transfers to fund.** Beginning November 1, 1997, the Treasurer of State shall transfer to the fund money representing 37 mills per cigarette from the tax levied under Title 36, section 4365.

2 3. Payments from fund. After depositing funds under
3 subsection 2, the Treasurer of State shall make the following
4 payments in the following order:

5 A. The Treasurer of State shall deposit into the General
6 Fund the revenues necessary to maintain the level of
7 cigarette tax revenue at the level that was budgeted for the
8 General Fund in fiscal years 1997-98 and 1998-99.
9 Beginning in fiscal year 1999-2000, the Treasurer of State
10 shall transfer to the General Fund the revenues necessary to
11 maintain the level of cigarette tax revenue in the previous
12 year less 3%. The Treasurer of State shall annually review
13 the recommendations of the Consensus Revenue Forecasting
14 Committee to determine whether any change in the reduction
15 rate is required and, if so, shall change the rate
16 accordingly;

17 B. The Treasurer of State shall transfer to the department
18 for the Tobacco Prevention and Control Program established
19 in section 272 funds sufficient for all allocations from the
20 fund; and

21 C. The Treasurer of State shall transfer to the Tax Relief
22 Fund for Maine Residents established in Title 5, section
23 1518, funds sufficient for all allocations from the fund.

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

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29
30 A tax is imposed on all cigarettes held in this State by any
31 person for sale, the tax to be at the rate of 15.5 mills for each
32 cigarette beginning October 1, 1989; 16.5 mills for each
33 cigarette beginning January 1, 1991; and 18.5 mills for each
34 cigarette beginning July 1, 1991. Beginning November 1, 1997, as
35 a public health measure, the tax imposed under this section is 37
36 mills for each cigarette. Payment of the tax shall must be
37 evidenced by the affixing of stamps to the packages containing
38 the cigarettes. If a federal program similar to that provided in
39 Title 22, section 3185, becomes effective, this tax is reduced by
40 one mill for each cigarette. The Governor shall determine by
41 proclamation when the federal program has become effective.
42 Nothing contained in this chapter shall may be construed to
43 impose a tax on any transaction, the taxation of which by this
44 State is prohibited by the Constitution of the United States.
45 Beginning November 1, 1997, the tax imposed pursuant to this
46 section is dedicated to the Healthy Families Fund established in
47 Title 22, section 1546.

48 **Sec. 4. 36 MRSA §4365-D is enacted to read:**
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2 §4365-D. Rate of tax beginning November 1, 1997

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

6 1. Stamped rate. Cigarettes stamped at the rate of 18.5
8 mills per cigarette and held for resale after October 31, 1997
8 are subject to tax at the rate of 37 mills per cigarette.

10 2. Liability. A person possessing cigarettes for resale is
12 liable for the difference between the tax rate of 37 mills per
12 cigarette and the tax rate of 18.5 mills per cigarette in effect
14 before November 1, 1997. Stamps indicating payment of the tax
14 imposed by this section must be affixed to all packages of
16 cigarettes held for resale as of November 1, 1997, except that
16 cigarettes held in vending machines as of that date do not
18 require that stamp.

18 3. Vending machines. Notwithstanding any other provision
20 of this chapter, it is presumed that all cigarette vending
20 machines are filled to capacity on November 1, 1997 and the tax
22 imposed by this section must be reported on that basis. A credit
22 against this inventory tax must be allowed for cigarettes stamped
24 at the 37 mill rate placed in vending machines before November 1,
24 1997.

26 4. Payment. Payment of the tax imposed by this section
28 must be made to the State Tax Assessor by February 1, 1998,
28 accompanied by forms prescribed by the assessor and must be
30 credited to the Healthy Families Fund established in Title 22,
30 section 1546.

32 Sec. 5. Appropriation. The following funds are appropriated
34 from the General Fund to carry out the purposes of this Act.

	1997-98	1998-99
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Bureau of Taxation		
Positions - Legislative Count	(1,000)	(1,000)
Personal Services	\$15,903	\$32,904
All Other	38,920	53,440
Capital Expenditures	10,000	
Provides funds for one Revenue Agent position,		

2 effective January 1, 1998,
 3 one contract investigator and
 4 related administrative
 5 expenses to administer and
 6 enforce the cigarette tax
 7 laws.

8 **DEPARTMENT OF ADMINISTRATIVE**
 9 **AND FINANCIAL SERVICES**
 10 **TOTAL** \$64,823 \$86,344

12 **Sec. 6. Allocation.** The following funds are allocated from
 13 Other Special Revenue to carry out the purposes of this Act.

14 1997-98 1998-99

16 **ADMINISTRATIVE AND FINANCIAL**
 17 **SERVICES, DEPARTMENT OF**

20 **Tax Relief Fund for Maine Residents**

22 Unallocated \$15,584,786 \$28,275,864

24 Provides funds for the Tax
 25 Relief Fund for Maine
 26 Residents. These funds may
 27 not be utilized for any
 28 purpose without specific
 29 legislative authorization.

32 **DEPARTMENT OF ADMINISTRATIVE**
 33 **AND FINANCIAL SERVICES**
 34 **TOTAL** \$15,584,786 \$28,275,864

36 **HUMAN SERVICES, DEPARTMENT OF**

38 **Bureau of Health**

40 All Other \$2,500,000 \$2,500,000

42 Provides funds to support the
 43 Tobacco Prevention and
 44 Control Program.

46 **DEPARTMENT OF HUMAN SERVICES**
 48 **TOTAL** \$2,500,000 \$2,500,000

50

2 **TOTAL**
 2 **ALLOCATIONS** \$18,084,786 \$30,775,864

4 **Sec. 7. Effective date.** This Act takes effect October 1, 1997.

6 **FISCAL NOTE**

8 **1997-98** **1998-99**

10 **APPROPRIATIONS/ALLOCATIONS**

12	General Fund	\$64,823	\$86,344
14	Other Funds	18,084,786	30,775,864

16 **REVENUES**

18	General Fund	\$384,745	\$654,742
20	Other Funds	18,105,463	30,811,050

22 Increasing the cigarette tax effective November 1, 1997 and
 24 dedicating all of the net additional cigarette tax revenue to the
 24 Healthy Families Fund will increase Other Special revenue by
 26 \$18,084,786 in fiscal year 1997-98 and \$30,775,864 in fiscal year
 1998-99.

28 The increase in price affecting the sales tax will increase
 30 General Fund revenue by \$384,745 in fiscal year 1997-98 and
 30 \$654,742 in fiscal year 1998-99. The corresponding increase in
 32 dedicated revenue to the Local Government Fund for
 32 state-municipal revenue sharing will be \$20,677 and \$35,186,
 34 respectively.

36 The bill provides Other Special Revenue allocations of
 36 \$15,584,786 and \$28,275,864 in fiscal years 1997-98 and 1998-99,
 38 respectively, for the Tax Relief Fund for Maine Residents.

40 The bill also includes Other Special Revenue allocations of
 40 \$2,500,000, annually, in fiscal years 1997-98 and 1998-99 for the
 42 Tobacco Prevention and Control Program.

44 The Bureau of Taxation will require additional General Fund
 44 appropriations of \$64,823 and \$86,344 in fiscal years 1997-98 and
 46 1998-99, respectively, for one Revenue Agent position effective
 46 January 1, 1998, one contract investigator and related
 48 administrative expenses to administer and enforce the cigarette
 tax laws.

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SUMMARY

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This bill provides for an increase in the cigarette tax rate to 37 mills per cigarette in order to fund a Tobacco Prevention and Control Program and deposits the balance of the revenue generated by the increase in the cigarette tax to the tax relief fund.

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