

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

m  
R.D.

L.D. 1349

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46  
48

DATE: 3-23-99

(Filing No. H-76)

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
119TH LEGISLATURE  
FIRST REGULAR SESSION

HOUSE AMENDMENT "D" to H.P. 951, L.D. 1349, Bill, "An Act to Protect Citizens from the Detrimental Effects of Tobacco"

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

Sec. 1. 22 MRSA 1579-A, as amended by PL 1989, c. 451, §§1 and 2, is repealed.

Sec. 2. 22 MRSA §1580-E is enacted to read:

§1580-E. Smoking in food or beverage service establishments

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

A. "Food or beverage service establishment" includes a restaurant and any establishment licensed under Title 28-A for the on-premise service of alcoholic beverages. "Food or beverage service establishment" does not include:

(1) Any food or beverage service establishment while it is being used solely for private parties or gatherings;

(2) Any enclosed room of a food or beverage service establishment or a hotel banquet room while it is being used solely for private parties or gatherings;

(3) Any private food or beverage service establishment or club in which only members or their guests are permitted; or

2           (4) Any outdoor seating area that is part of a food or  
3           beverage service establishment.

4  
5           B. "Mechanically ventilated" means the use of mechanical  
6           devices within a building, other than ceiling fans or small  
7           portable fans, that provide all or a substantial portion of  
8           the climate conditioning, cooling or ventilation of the  
9           building.

10           C. "Naturally ventilated" means the movement of outdoor air  
11           within a building or a portion of a building, which provides  
12           all or a substantial portion of its ventilation through:

13                   (1) Intentionally provided openings, such as windows  
14                   and doors;

15                   (2) Nonpowered ventilators; or

16                   (3) Ceiling fans.

17  
18           D. "Negative pressure" means a condition that exists when  
19           the air pressure in a space is lower than the air pressure  
20           in the surrounding space, causing air to flow naturally from  
21           the area of higher pressure to the area of lower pressure.  
22           Negative pressure may be created by removing more air than  
23           is supplied into a mechanically ventilated space.

24  
25           E. "No-smoking area" means the area of a food or beverage  
26           service establishment where smoking is not permitted.

27  
28           F. "Outdoor air" means air taken from outside of a building  
29           for use in a ventilation system.

30  
31           G. "Recirculated air" means air that has been removed from  
32           an indoor space and subsequently returned to an indoor space.

33  
34           H. "Restaurant" means an enclosed indoor restaurant or  
35           other enclosed indoor establishment that invites the public  
36           to be served food for consumption on the premises.

37  
38           I. "Smoking" means carrying or having in one's possession a  
39           lighted cigarette, cigar, pipe or other object giving off or  
40           containing any substance giving off tobacco smoke.

41  
42           J. "Smoking area" means the area of a food or beverage  
43           service establishment where smoking is permitted.

44  
45           K. "Supply air" means air delivered to an indoor space and  
46           used for ventilation, heating, cooling, humidification or  
47           dehumidification.

2 L. "Ventilation air" means outdoor air plus any  
4 recirculated air that has been filtered to remove at least  
6 95% of the particulate materials, 0.3 micrometers  
8 aerodynamic diameter, and cleaned by a 3-phase air cleaner  
10 or the equivalent to remove gaseous and vapor phase  
12 constituents.

14 2. Mechanically ventilated food or beverage service  
16 establishment. Smoking is permitted in a mechanically ventilated  
18 food or beverage service establishment, referred to in this  
20 subsection as the "establishment," only under the following  
22 conditions:

24 A. The owner, operator, proprietor or manager of the  
26 establishment establishes designated no-smoking and smoking  
28 areas:

30 B. The establishment provides for its patrons a no-smoking  
32 area, reasonably calculated to address the needs of the  
34 nonsmoking public:

36 C. The establishment displays prominently, at or near the  
38 entrance, a sign indicating its policy on seating smokers  
40 and nonsmokers and encourages customers to make their  
42 seating requests known. A sign need not be displayed if a  
44 host or hostess seats customers and indicates orally at the  
46 time of seating the establishment's policy and the location  
48 of the smoking and no-smoking areas in the establishment:

50 D. No-smoking and smoking areas are separated by a physical  
barrier of no less than 4 feet in height or are spatially  
separated by a distance of no less than 4 feet and any  
smoking areas must operate at negative pressure with respect  
to adjoining no-smoking areas:

E. In establishments existing prior to the effective date  
of this section, recirculated air, if any, from designated  
smoking areas is filtered to remove at least 65% of the  
particulate material and diluted by outdoor air prior to  
being supplied back to the space:

F. In establishments that are established or substantially  
renovated after the effective date of this section, air from  
smoking areas is not recirculated to no-smoking areas:

G. Air treatment devices used to treat recirculated air are  
maintained, serviced and replaced according to manufacturer  
specifications:

2 H. Smoking areas are supplied with ventilation air of no  
4 less than 20 cfm per person, unless otherwise specified by  
6 applicable state laws and building codes; and

8 I. Mechanical ventilation systems have a source of outdoor  
10 air.

12 3. Naturally ventilated food or beverage service  
14 establishment. Smoking is permitted in a naturally ventilated  
16 food or beverage service establishment, referred to in this  
18 subsection as an "establishment," only under the following  
20 conditions:

22 A. The owner, operator, proprietor or manager of the  
24 establishment establishes designated no-smoking and smoking  
26 areas:

28 B. The no-smoking areas consist of a percentage of total  
30 seating capacity established by the owner, operator,  
32 proprietor or manager responding to market conditions:

34 C. The establishment displays prominently, at or near the  
36 entrance, a sign indicating its policy on seating smokers  
38 and nonsmokers and encourages customers to make their  
40 seating requests known. A sign need not be displayed if a  
42 host or hostess seats customers and indicates orally at the  
44 time of seating the establishment's policy and the location  
46 of the smoking and no-smoking areas in the restaurant:

48 D. No-smoking and smoking areas are separated by a physical  
50 barrier at least 4 feet in height or are spatially separated  
by a distance of no less than 4 feet; and

E. Designated smoking areas placed in such a manner as to  
minimize drift of tobacco smoke from smoking areas into  
no-smoking areas or adjacent enclosed areas through the use  
of:

(1) Natural air flows and prevailing winds;

(2) Auxiliary mechanical devices, including, but not  
limited to, fans or ceiling fans; or

(3) The use of mechanisms to keep a smoking area at a  
negative pressure relative to the surrounding space.


4. Application. This section applies to all food or  
beverage service establishments that are established or are  
substantially renovated after the effective date of this  
section. Food or beverage service establishments that exist

HOUSE AMENDMENT "D" to H.P. 951, L.D. 1349

prior to the effective date of this section must comply with this section no less than 24 months from the effective date of this section.'

**SUMMARY**

This amendment strikes the bill entirely. The amendment repeals the existing law governing smoking in restaurants and enacts provisions allowing smoking in food or beverage service establishments only if the establishments adhere to ventilation standards set forth in the amendment.

SPONSORED BY:   
(Representative J. SAXL)

TOWN: Bangor