MAINE STATE LEGISLATURE

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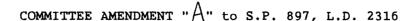
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•		L.D. 2316
2	DATE: 3/7/2000	(Filing No. S-524)
4	•	
6	TAXATION	
8	Reported by:	
10	Reproduced and distributed unof the Senate.	der the direction of the Secretary
12	STAT	E OF MAINE
14	SENATE	
16		EGISLATURE EGULAR SESSION
18	۸	
20	COMMITTEE AMENDMENT " And Act to Prevent Gray Market Cig	to S.P. 897, L.D. 2316, Bill, "Ararette Sales"
22	Amend the bill by inser before section 1 the following	ting after the enacting clause and
24	Sec. 1 22 MRSA 81556-A	, first ¶, as enacted by PL 1995, c.
26	470, §9 and affected by §19, i	
28		hapter and Title 36, section 4366-0
30		dement officers as defined by Title by contract with the department to
32	Con 2 22 MDCA SIEEC A	and \$1
34	470, §9 and affected by §19, i	sub-§1, as enacted by PL 1995, c. s amended to read:
36		The authority of contract officers limited to enforcement of this Act
38	and Title 36, section 4366-	
40	mutually agreed upon between	the department and the Department of
42	background in law enforcemen	-
44		ments except as otherwise determined contract officers

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are not considered law enforcement officers for the purposes of

enforcing the Maine Juvenile Code.'



2	Further amend the bill in section 1 in that part designated
	"\$4366-C." in subsection 1 in the 2nd line (page 1, line 8 in
4	L.D.) by inserting after the following: "may not" the
	following: 'offer for sale, sell or'
6	
_	Further amend the bill in section 1 in that part designated
8	"\$4366-C." in subsection 3 in the first and 2nd lines (page 1,
	lines 34 and 35 in L.D.) by striking out the following: "affixes
10	stamps to cigarettes in violation of" and inserting in its place
12	the following: 'violates'
14	Further smand the hill by importing often section 1 the
14	Further amend the bill by inserting after section 1 the following:
7.4	10110wing:
16	'Sec. 2. 36 MRSA §4372-A, sub-§1, as enacted by PL 1997, c.
	458, §17, is amended to read:
18	
	1. Generally. Except as provided in subsection 2, any
20	unstamped cigarettes or cigarettes described in section 4366-C.
	subsection 1 that are found in this State are hereby declared to
22	be contraband goods subject to seizure by and forfeiture to the
	State. All law enforcement officers, including contract officers
24	pursuant to Title 22, section 1556-A, and duly authorized agents
	of the State Tax Assessor may seize contraband cigarettes under
26	the process described in subsection 3.
	C 2 2/ MDCA 84282 A P2
28	Sec. 3. 36 MRSA §4372-A, sub-§2, as amended by PL 1997, c.
30	668, §28, is further amended to read:
30	2. Exceptions. The following cigarettes are not subject to
32	seizure:
32	scraute.
34	A. Unstamped cigarettes in the possession of a licensed
	distributor;
36	
	B. Unstamped cigarettes in the course of transit from
38	without the State and consigned to a licensed distributor;
	and
40	
	C. Unstamped cigarettes in a quantity of 2 cartons or less
42	in the possession of an individual who is not a licensed
4.4	distributor.
44	Notwithstanding programs A D and C signature described in
46	Notwithstanding paragraphs A, B and C, cigarettes described in section 4366-C, subsection 1 are subject to seizure under the
40	process described in subsection 3, unless the dealer or
	PIACORD RESCITION IN DANDSCRIAIN DI MITTER CITA MENTAL AT

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distributor can prove the cigarettes are to be exported out of

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the country.

COMMITTEE AMENDMENT

g.	12.

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2	<pre>Sec. 4. 36 MRSA §4372-A, sub-§§3 and 7, as enacted by PL 1997, c. 458, §17, are amended to read:</pre>
4	c. 458, §17, are amended to read:
-	3. Procedure for seizure. Contraband cigarettes may be
6	seized by law enforcement officers and by duly authorized agents
-	of the State Tax Assessor who have probable cause to believe that
8	the cigarettes are unstamped cigarettes or cigarettes described
	in section 4366-C, subsection 1 under the following circumstances:
10	
	A. When the cigarettes are discovered in a place where the
12	law enforcement officer or agent has the lawful right to be
	in the performance of official duties; or
14	
	B. When the seizure is incident to a search under a valid
16	search warrant or an inspection under a valid administrative
	inspection warrant.
18	<u>-</u>
	7. Hearings; disposition; deposit of funds. At a hearing,
20	other than a default proceeding, the court shall hear evidence,
	make findings of fact, enter conclusions of law and file a final
22	order from which the parties have the right of appeal. When
	cigarettes are ordered forfeited, the final order must provide
24	for the disposition of the cigarettes by the State Tax Assessor
	by public auction or by the State Purchasing Agent. Proceeds
26	must be deposited in the General Fund. Cigarettes described in
	section 4366-C, subsection 1 must be destroyed by the State Tax
28	Assessor in a manner that prevents their reintroduction into the
	marketplace.'
30	
	Further amend the bill by relettering or renumbering any
32	nonconsecutive Part letter or section number to read
	consecutively.
34	
	Further amend the bill by inserting at the end before the
36	summary the following:
38	
	'FISCAL NOTE
40	
	The additional enforcement mechanism against "gray market
12	cigarettes" is not expected to significantly increase General
	Fund revenue from cigarette taxes.
14	
1.6	The additional costs associated with an increase in
16	discretionary prosecutions can be absorbed by the Department of
	the Attorney General utilizing existing budgeted resources.

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COMMITTEE AMENDMENT

This bill may increase prosecutions for Class E crimes. If a jail sentence is imposed, the additional costs to the counties



COMMITTEE AMENDMENT "A" to S.P. 897, L.D. 2316

are estimated to be \$83.36 per day per prisoner. The number of prosecutions that may result in a jail sentence and the resulting costs to the county jail system are expected to be insignificant.

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The additional workload and administrative costs associated with the minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department. The collection of additional fines may increase General Fund revenue by minor amounts.'

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12 SUMMARY

The amendment makes clear that gray market cigarettes may be seized and, if so, are to be destroyed. The amendment also ensures that contract officers who already enforce tobacco sales laws will have jurisdiction to enforce gray market restrictions.

It also adds a fiscal note.

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