

MAINE STATE LEGISLATURE

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L.D. 1631

DATE: 3-18-04

(Filing No. S- 437)

HEALTH AND HUMAN SERVICES

Reported by: **MINORITY**

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STATE OF MAINE
SENATE
121ST LEGISLATURE
SECOND SPECIAL SESSION

COMMITTEE AMENDMENT "B" to S.P. 587, L.D. 1631, Bill, "An Act To Prevent the Sale of Water Laced with Nicotine in Maine"

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

'An Act To Prohibit the Sale of Nicotine Water to Minors'

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. 22 MRSA §1556-B is enacted to read:

§1556-B. Nicotine water

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

A. "Nicotine water" means water that is sold in this State, that is intended for human consumption and that contains as an added ingredient nicotine or an alkaloid having similar physiological activity.

2. Prohibition. A person may not sell, furnish, give away or offer to sell, furnish or give away nicotine water to any person under 18 years of age. Nicotine water may not be sold at retail to any person under 27 years of age unless the seller first verifies that person's age by means of reliable photographic identification containing the person's date of birth.

COMMITTEE AMENDMENT

2 3. Sales through vending machines. Nicotine water may not
3 be sold through vending machines.

4 4. Possession and use of nicotine water. Except as
5 provided in subsection 5, a person under 18 years of age may not:

6 A. Purchase, possess or use nicotine water;

7 B. Violate paragraph A after having previously violated
8 this subsection; or

9 C. Violate paragraph A after having previously violated
10 this subsection 2 or more times.

11 5. Exception to possession by minor. Notwithstanding
12 subsection 4, a person under 18 years of age may transport or
13 permit to be transported in a motor vehicle nicotine water in the
14 original sealed package in which it was placed by the
15 manufacturer if the transportation is in the scope of that
16 person's employment.

17 6. Fines. A person who violates this section is subject to
18 the following fines.

19 A. A person who violates subsection 2 or 3 commits a civil
20 violation for which a fine of not less than \$50 and not more
21 than \$1,500, plus court costs, must be adjudged for any one
22 offense. Except pursuant to Title 15, section 3314, the
23 fine may not be suspended.

24 B. An employer of a person who violates subsection 2 or 3
25 commits a civil violation for which a fine of not less than
26 \$50 and not more than \$1,500, plus court costs, must be
27 adjudged. The fine may not be suspended.

28 C. A person who violates subsection 4 commits a civil
29 violation for which the following fines may be adjudged.

30 (1) For a first offense, a fine of not less than \$100
31 and not more than \$300 may be imposed. The court, as
32 an alternative to or in addition to the fine permitted
33 by this subparagraph, may assign the violator to
34 perform specified work for the benefit of the State,
35 the municipality or other public entity or a charitable
36 institution.

37 (2) For a 2nd offense, a fine of not less than \$200
38 and not more than \$500 may be imposed. The court, as
39 an alternative to or in addition to the fine permitted
40 by this subparagraph, may assign the violator to
41 perform specified work for the benefit of the State,
42 the municipality or other public entity or a charitable
43 institution.

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2 by this subparagraph, may assign the violator to
3 perform specified work for the benefit of the State,
4 the municipality or other public entity or a charitable
5 institution.

6 (3) For all subsequent offenses, a fine of \$500 must
7 be imposed and that fine may not be suspended. The
8 court, in addition to the fine required by this
9 subparagraph, may assign the violator to perform
10 specified work for the benefit of the State, the
11 municipality or other public entity or a charitable
12 institution.

13 7. Affirmative defense. It is an affirmative defense to
14 prosecution for a violation of subsection 2 that the defendant
15 sold, furnished, gave away or offered to sell, furnish or give
16 away nicotine water to a person under 18 years of age in
17 reasonable reliance upon a fraudulent proof of age presented by
18 the purchaser.

19 8. Manner of display and offer for sale. Nicotine water
20 may be displayed or offered for sale only in a manner that does
21 not allow direct access to the nicotine water.'

26 **SUMMARY**

27 This amendment is the minority report of the committee. The
28 amendment replaces the bill. It imposes on the sale of nicotine
29 water restrictions that are similar to the restrictions on the
30 sale of cigarettes and tobacco products to minors and
31 restrictions on the location of the product in stores.

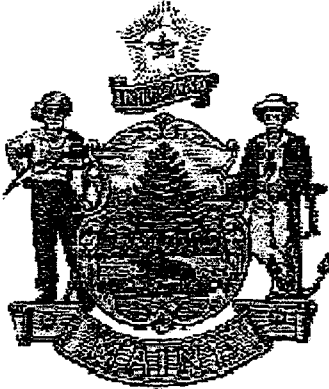
34 **FISCAL NOTE REQUIRED**
35 **(See attached)**

Approved: 02/26/04 *MRC*

121st Maine Legislature
Office of Fiscal and Program Review

LD 1631

An Act To Prevent the Sale of Water Laced with Nicotine in Maine



LR 2171(04)

Fiscal Note for Bill as Amended by Committee Amendment

Committee: Health and Human Services

Fiscal Note Required: Yes

Minority Report

B

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Establishes new civil violations