

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)

L.D. 1801

DATE: 3-3-04

(Filing No. H-733)

MINORITY

BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT

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

STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
SECOND SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 1323, L.D. 1801, Bill, "An Act To Control Adult Entertainment Establishments"

Amend the bill by inserting after the enacting clause and before the concept draft summary the following:

Sec. 1. 30-A MRSA §4314, sub-§3, ¶E, as enacted by PL 2001, c. 406, §3, is amended to read:

E. The ordinance or portion of the ordinance conflicts with a newly adopted comprehensive plan or plan amendment adopted under this subchapter, in which case the ordinance or portion of the ordinance remains in effect for a period of up to 24 months immediately following adoption of the comprehensive plan or plan amendment; ~~or~~

Sec. 2. 30-A MRSA §4314, sub-§3, ¶F, as amended by PL 2001, c. 578, §10, is further amended to read:

F. The municipality or multimunicipal region applied for and was denied financial assistance for its first planning assistance or implementation assistance grant under this subchapter due to lack of state funds on or before January 1, 2003. If the office subsequently offers the municipality or multimunicipal region its first planning assistance or implementation assistance grant, the municipality or multimunicipal region has up to one year to contract with the office to prepare a comprehensive plan or implementation program, in which case the municipality's or multimunicipal region's ordinances will be subject to paragraph D; or

2 **Sec. 3. 30-A MRSA §4314, sub-§3, ¶G** is enacted to read:

4 G. The ordinance or portion of an ordinance is an adult
6 entertainment establishment ordinance, as defined in section
 4352, subsection 2, that has been adopted by a municipality
 that has not adopted a comprehensive plan.

8 **Sec. 4. 30-A MRSA §4352, sub-§2**, as enacted by PL 1989, c.
10 104, Pt. A, §45 and Pt. C, §10, is amended to read:

12 **2. Relation to comprehensive plan.** A zoning ordinance,
14 other than an adult entertainment establishment ordinance, must
16 be pursuant to and consistent with a comprehensive plan adopted
18 by the municipal legislative body. As used in this section,
20 "adult entertainment establishment ordinance" means an ordinance
22 that regulates the operation of adult amusement stores, adult
 video stores, adult bookstores, adult novelty stores, adult
 motion picture theaters, on-site video screening establishments,
 adult arcades, adult entertainment nightclubs or bars, adult
 spas, establishments featuring strippers or erotic dancers,
 escort agencies or other sexually oriented businesses.

24 **Sec. 5. 30-A MRSA §4352, sub-§6**, as amended by PL 1993, c.
26 721, Pt. A, §11 and affected by Pt. H, §1, is further amended to
 read:

28 **6. Effect on State.** A zoning ordinance, other than an
30 adult entertainment establishment ordinance, that is not
32 consistent with a comprehensive plan that is consistent with the
34 provisions of section 4326 is advisory with respect to the
36 State. Except as provided in this section, a state agency shall
38 comply with a zoning ordinance consistent with a comprehensive
 plan that is consistent with the provisions of section 4326 in
 seeking to develop any building, parking facility or other
 publicly owned structure. The Governor or the Governor's
 designee may, after public notice and opportunity for public
 comment, including written notice to the municipal officers,
 waive any use restrictions in those ordinances upon finding that:

40 A. The proposed use is not allowed anywhere in the
 municipality;

42 B. There are no reasonable alternative sites for or
44 configurations of the project within the municipality that
 would achieve the necessary public purposes;

46 C. There are no reasonable alternatives to the project,
48 including sites in other municipalities, that would achieve
 the necessary public purposes;

2 D. The project will result in public benefits beyond the
limits of the municipality, including without limitation,
4 access to public waters or publicly owned lands; and

6 E. The project is necessary to protect the public health,
welfare or environment.

8
10 A decision to waive a restriction under this section may be
appealed by the municipality or any aggrieved party to Superior
Court.'

12

14

SUMMARY

16

18 This amendment, which is the minority report of the
committee, replaces the concept draft. The amendment enables a
municipality to enact an adult entertainment establishment
20 ordinance, which regulates the operation of sexually oriented
businesses, without triggering the requirement of adoption of a
22 comprehensive plan.