

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 886

S.P. 294

In Senate, February 22, 2005

An Act To Promote Parity in the Laws Governing Smoking in the Workplace

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator TURNER of Cumberland.

Cosponsored by Senators: MILLS of Somerset, PERRY of Penobscot, Representatives:
LEWIN of Eliot, MILLER of Somerville, MILLS of Farmington, PINGREE of North Haven,
SAMPSON of Auburn.

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

4 **Sec. 1. 22 MRSA §1541, sub-§3**, as enacted by PL 1993, c. 342,
§1 and affected by §9, is repealed.

6 **Sec. 2. 22 MRSA §1542, sub-§2, ¶I**, as enacted by PL 1993, c.
342, §1 and affected by §9, is repealed.

8 **Sec. 3. 22 MRSA §1580-A, sub-§§3 and 4**, as enacted by PL 1985,
10 c. 126, are amended to read:

12 **3. Policy; notice.** Each employer shall establish, or may
negotiate through the collective bargaining process, a written
14 policy concerning smoking and nonsmoking by employees in that
portion of any business facility for which ~~he~~ the employer is
16 responsible. In order to protect the employer and employees from
the detrimental effects of smoking by others, the policy shall
18 must prohibit smoking except in designated smoking areas. The
policy may prohibit smoking throughout the business facility.
20 The employer shall post and supervise the implementation of the
policy. The employer shall provide a copy of this policy to any
22 employee upon request. ~~Nothing in this section may affect the
right of any employer to establish policies concerning smoking
and nonsmoking by members of the public who have access to the
business facility.~~ Nothing in this section may be construed to
24 subject an employer to any additional liability, other than
liability ~~which~~ that may exist by law, for harm to an employee
26 from smoking by others in any business facility covered by this
28 section.

30 All enclosed areas of a workplace into which members of the
32 public are invited or allowed are governed by the provisions of
chapter 262.

34 The Bureau of Health shall accept inquiries from employers and
36 employees and shall, when requested, assist employers in
developing a policy.

38 **4. Violations.** Failure to establish, post or supervise the
40 implementation of a policy is a civil violation for which a fine
of ~~not more than~~ \$100 to \$2,500 may be adjudged for each
42 violation. The Bureau of Health ~~shall have~~ has authority to
enforce provisions of this section.

44 **Sec. 4. 22 MRSA §1580-A, sub-§4-A** is enacted to read:

46 **4-A. Enforcement.** Enforcement actions for violations may
48 be brought against a person smoking in an enclosed area of a
public place, the owner of the public place or both. The
50 Attorney General may bring an action to enforce this section in
District Court or Superior Court and may seek injunctive relief,

2 including a preliminary or final injunction, and fines, penalties
3 and equitable relief and may seek to prevent or restrain actions
4 in violation of this section by any person or any person
5 controlling such a person.

6 **Sec. 5. 22 MRSA §1580-A, sub-§7,** as enacted by PL 1985, c.
7 126, is repealed.

8
9
10 **SUMMARY**

11 This bill clarifies that enclosed areas of workplaces that
12 are open to the public are governed by the public places smoking
13 laws; increases the range of fines that may be imposed for
14 violation of the Workplace Smoking Act of 1985; adds an
15 enforcement provision to the law that is consistent with
16 enforcement provisions in other tobacco-related statutes; and
17 repeals the provision that exempts workplaces from the Workplace
18 Smoking Act of 1985 if the employer and all employees agree to do
19 so.
20